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2023 Regular Session

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CHAPTER 1**(SB 10)**

AN ACT relating to registration of professional employer organizations and declaring an emergency.

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

➔Section 1. KRS 336.236 is amended to read as follows:

- (1) A person engaged in providing professional employer services pursuant to a co-employment relationship in which all or a majority of the employees of a client are covered employees shall be registered under KRS 336.230 to 336.250 **no later than July 15, 2024. After July 15, 2024**, a person who is not registered under KRS 336.230 to 336.250 shall not offer or provide professional employer services in this Commonwealth and shall not use the names professional employer organization, PEO, staff leasing company, employee leasing company, administrative employer, or any other name or title representing professional employer services.
- (2) Each applicant for registration under KRS 336.230 to 336.250 shall provide the Department of Workers' Claims with the following:
 - (a) The name or names under which the professional employer organization conducts business;
 - (b) The address of the principal place of business of the professional employer organization and the address of each office it maintains in this Commonwealth;
 - (c) The professional employer organization's taxpayer identification number or federal and state employer identification number;
 - (d) A list, by jurisdiction, of each name under which the professional employer organization has operated in the preceding five (5) years, including any alternative names, names of predecessors, and, if known, successor business entities;
 - (e) A statement of ownership, which shall include the name and evidence of the business experience of any person that, individually or acting in concert with one (1) or more other persons, owns or controls, directly or indirectly, twenty-five percent (25%) or more of the equity interest in the professional employer organization; and
 - (f)
 1. A financial statement setting forth the financial condition of the professional employer organization or professional employer organization group.
 2. At the time of the initial application for a new registration, the applicant shall submit the most recent audit of the applicant, which shall not be older than thirteen (13) months. Thereafter, a professional employer organization or professional employer organization group shall file a succeeding audit on an annual basis within one hundred eighty (180) days after the end of the fiscal year.
 3. An applicant may apply for an extension with the Department of Workers' Claims, but any extension request shall be accompanied by a letter from the auditors stating the reasons for the delay and the anticipated date for completion of the audit.
 4. The financial statement shall be prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located, and shall be without qualification as to the going concern status of the professional employer organization.
 5. A professional employer organization group may submit combined or consolidated audited financial statements to meet the requirements of this paragraph.
 6. A professional employer organization that has not had sufficient operating history to have audited financial statements based on at least twelve (12) months of operating history shall meet the requirements in KRS 336.240 and present financial statements reviewed by a certified public accountant.
- (3) Each professional employer organization operating within this Commonwealth as of July 14, 2022, shall complete its initial registration no later than **July 15, 2024**~~[one hundred eighty (180) days after July 14, 2022]~~. The initial registration shall be valid until~~[one hundred eighty (180) days from]~~ the end of the professional employer organization's first fiscal year that is more than one (1) fiscal year after **July 15, 2024**~~[July 14, 2022]~~.

- (4) Each professional employer organization not operating within this Commonwealth as of July 14, 2022, shall complete its initial registration prior to initiating operations within this Commonwealth. If a professional employer organization not operating within this Commonwealth becomes aware that an existing client that is not based in this Commonwealth had employees and operations in this Commonwealth, the professional employer organization shall either decline to provide professional employer services for those employees or notify the Department of Workers' Claims within five (5) business days of its knowledge of this fact and file a limited registration application or file a full business registration if there are more than fifty (50) covered employees. The Department of Workers' Claims may issue an interim operating permit for the period the registration applications are pending if the professional employer organization is currently registered or licensed by another state and the Department of Workers' Claims determines it to be in the best interests of the potential covered employees.
- (5) Within one hundred eighty (180) days after the end of the fiscal year, a registrant shall renew its registration by notifying the Department of Workers' Claims of any changes in the information provided in the registrant's most recent registration or renewal. A registrant's existing registration shall remain in effect during the pendency of a renewal application.
- (6) Professional employer organizations in a professional employer organization group may satisfy the reporting and financial requirements of KRS 336.230 to 336.250 on a combined or consolidated basis provided that each member of the professional employer organization group guarantees the financial capacity obligations under KRS 336.230 to 336.250 of each other member of the professional employer organization group. In the case of a professional employer organization group that submits a combined or consolidated audited financial statement that includes entities that are not professional employer organizations or that are not in the professional employer organization group, the controlling entity of the professional employer organization group under the consolidated or combined statement shall guarantee the obligations of the professional employer organizations in the professional employer organization group.
- (7)
 - (a) A professional employer organization is eligible for a limited registration under KRS 336.230 to 336.250 if the professional employer organization:
 1. Submits a properly executed request for limited registration on a form provided by the Department of Workers' Claims;
 2. Is domiciled outside this Commonwealth and is licensed or registered as a professional employer organization in another state;
 3. Does not maintain an office in this Commonwealth or directly solicit clients located or domiciled within this Commonwealth; or
 4. Does not have more than fifty (50) covered employees domiciled or employed in this Commonwealth on any given day.
 - (b) A limited registration is valid for one (1) year and may be renewed.
 - (c) A professional employer organization seeking limited registration under this subsection shall provide the Department of Workers' Claims with information and documentation necessary to show that the professional employer organization qualifies for a limited registration.
 - (d) KRS 336.240 does not apply to applicants for limited registration.
- (8) The Department of Workers' Claims shall maintain a list of professional employer organizations registered pursuant to KRS 336.230 to 336.250 that is readily available to the public by electronic or other means.
- (9) The Department of Workers' Claims shall to the extent practical permit by administrative regulation the acceptance of electronic filings, including applications, documents, reports, and other filings required under KRS 336.230 to 336.250. The Department of Workers' Claims may provide for the acceptance of electronic filings and other assurance by an independent and qualified assurance organization approved by the secretary that provides satisfactory assurance of compliance acceptable to the Department of Workers' Claims consistent with or in lieu of the requirements of this section and KRS 336.240, and other requirements of KRS 336.230 to 336.250. The secretary shall permit a professional employer organization to authorize an approved assurance organization to act on behalf of the professional employer organization in complying with the registration requirements of KRS 336.230 to 336.250, including electronic filings of information and payment of registration fees. Use of an approved assurance organization shall be optional for a registrant. Nothing in this subsection shall limit or change the Department of Workers' Claims' authority to register or terminate

registration of a professional employer organization or to investigate or enforce any provision of KRS 336.230 to 336.250.

- (10) All records, reports, and other information obtained from a professional employer organization under KRS 336.230 to 336.250, except to the extent necessary for the proper administration of KRS 336.230 to 336.250 by the Department of Workers' Claims, shall be confidential and shall not be published or open to public inspection other than to public employees in the performance of their public duties.
- (11) The Department of Workers' Claims may promulgate administrative regulations and prescribe forms necessary to promote the efficient administration of this section.

➔Section 2. KRS 336.248 is amended to read as follows:

For the purposes of KRS Chapter 341:

- (1) ***Except as provided in subsection (2) of this section***, covered employees of a registered professional employer organization shall be considered employees of the professional employer organization, which shall be responsible for the payment of contributions, penalties, and interest on wages paid by the professional employer organization to its covered employees during the term of the applicable professional employer agreement;
- (2) ***Beginning on the effective date of this Act and continuing through December 31, 2024, the professional employer organization shall report and pay all required contributions to the unemployment insurance fund using the state employer identification number and contribution rate of the client. After January 1, 2025, the professional employer organization shall report and pay all required contributions to the unemployment insurance fund using the state employer identification number and the contribution rate of the professional employer organization; and***
- (3) Upon the termination of a contract between a professional employer organization and a client or the failure of a professional employer organization to submit reports or make tax payments as required by KRS 336.230 to 336.250, the client shall be treated as a new employer without a previous experience record unless that client is otherwise eligible for an experience rating.

➔Section 3. KRS 336.250 is amended to read as follows:

- (1) A person shall not knowingly:
 - (a) ***After July 15, 2024***, offer or provide professional employer services or use the names professional employer organization, PEO, staff leasing, employee leasing, administrative employer, or other title representing professional employer services without first becoming registered under KRS 336.230 to 336.250; or
 - (b) Provide false or fraudulent information to the Department of Workers' Claims in conjunction with any registration, renewal, or in any report required under KRS 336.230 to 336.250.
- (2) Action may be taken by the Department of Workers' Claims against:
 - (a) Any person for violation of subsection (1) of this section;
 - (b) A professional employer organization or the controlling person of a professional employer organization upon the conviction of a professional employer organization or the controlling person of a professional employer organization of a crime that relates to the operation of the professional employer organization or the ability of the registrant or the controlling person of the registrant to operate the professional employer organization;
 - (c) A professional employer organization or the controlling person of a professional employer organization for knowingly making a material misrepresentation to the Department of Workers' Claims or any other state agency; or
 - (d) A professional employer organization or the controlling person of a professional employer organization for a willful violation of KRS 336.230 to 336.250 or any order or administrative regulation issued by the Department of Workers' Claims under KRS 336.230 to 336.250.
- (3) Upon finding that a professional employer organization or the controlling person of a professional employer organization has violated any provision of KRS 336.230 to 336.250, the Department of Workers' Claims may:
 - (a) Deny an application for a registration;

- (b) Revoke, restrict, or refuse a registration;
- (c) Impose a civil penalty not to exceed one thousand dollars (\$1,000) for each violation;
- (d) Place a registration on probation and subject to conditions specified by the Department of Workers' Claims; or
- (e) Issue a cease and desist order.

→Section 4. The amendments to KRS 336.230 to 336.250 in this Act, including to Section 1 of this Act, shall not impact or change any other provision or requirement established in 2022 Ky. Acts ch. 50 that was not specifically amended in this Act.

→Section 5. For the period beginning July 14, 2022, and continuing until the effective date of this Act, the Education and Labor Cabinet shall not require reporting or payment of required contributions to the unemployment insurance fund using the state employer identification number and contribution rate of the professional employer organization or take enforcement action against the professional employer organization pursuant to KRS 336.250 regarding professional employer organization contributions related to KRS 336.248(2).

→Section 6. Whereas the proper treatment of all professional employer organizations in the Commonwealth by the Department of Worker' Claims is of critical importance, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor January 6, 2023.

CHAPTER 2

(HB 2)

AN ACT relating to the Bowling Green Veterans Center, making an appropriation therefor, and declaring an emergency.

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

→Section 1. There is hereby appropriated General Fund moneys in the amount of \$16,630,000 in fiscal year 2022-2023 from the Budget Reserve Trust Fund Account (KRS 48.705) to the Kentucky Department of Veterans' Affairs for construction of the Bowling Green Veterans Center.

→Section 2. Whereas the veterans of this Commonwealth deserve the best possible care, as near to their homes and families as is practicable, and whereas this bill will advance that highly important public purpose in this time of urgent need, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor February 15, 2023.

CHAPTER 3

(HB 1)

AN ACT relating to income taxation.

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

→Section 1. KRS 141.020 is amended to read as follows:

- (1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his or her entire net income as defined in this chapter. The tax shall be determined by applying the rates in subsection (2) of this section to net income and subtracting allowable tax credits provided in subsection (3) of this section.
- (2) (a) As used in this subsection:

1. "Balance in the BRTF at the end of a fiscal year" means the budget reserve trust fund account established in KRS 48.705 and includes the following amounts and actions resulting from the final close of the fiscal year:
 - a. The amount of moneys in the fund at the end of a fiscal year;
 - b. All close-out actions related to a budget reduction plan under KRS 48.130 or as modified in a branch budget bill; and
 - c. All close-out actions related to the surplus expenditure plan under KRS 48.140 or as modified in a branch budget bill;
 2. "GF appropriations" means the authorization by the General Assembly to expend GF moneys, excluding:
 - a. Any appropriation to the budget reserve trust fund; and
 - b. Any lump-sum appropriation to a state-administered retirement system, as defined in KRS 7A.210, that is in excess of the appropriations specifically budgeted to meet the recurring statutorily required contributions or recurring actuarially determined contributions for a state-administered retirement system under KRS 21.525, 61.565, 61.702, 78.635, 78.5536, or 161.550, as applicable;
 3. "GF moneys" means receipts deposited in the general fund defined in KRS 48.010, excluding tobacco moneys deposited in the fund established in KRS 248.654;
 4. "IIT equivalent" means the amount of reduction in GF moneys resulting from a one (1) percentage point reduction to the individual income tax rate;
 5. "Reduction conditions" means:
 - a. The balance in the BRTF at the end of a fiscal year shall be equal to or greater than ten percent (10%) of the GF moneys for that fiscal year; and
 - b. GF moneys at the end of a fiscal year shall be equal to or greater than GF appropriations for that fiscal year plus the IIT equivalent for that fiscal year; and
 6. "Tax rate reduction" means the current tax rate minus five-tenths of one percent (0.5%).
- (b)
1. Beginning no later than September 1, 2022, the department, with assistance from the Office of State Budget Director, shall review the reduction conditions as they apply to fiscal year 2020-2021 and fiscal year 2021-2022 and make a determination if the reduction conditions have been met for each fiscal year.
 2. After reviewing the reduction conditions under subparagraph 1. of this paragraph, the department shall:
 - a. No later than September 5, 2022, report to the Interim Joint Committee on Appropriations and Revenue:
 - i. Whether a tax rate reduction will occur for the taxable year beginning on January 1, 2023; and
 - ii. The amounts associated with each item within the reduction conditions used for making that determination; and
 - b.
 - i. Implement the tax rate reduction for the taxable year beginning on January 1, 2023, if the reduction conditions are met; or
 - ii. Maintain the current tax rate, if the reduction conditions are not met.
- (c)
1. The department shall implement an annual process to review and report future reduction conditions at the same time and in the same manner as under paragraph (b) of this subsection, except that the department shall use the next succeeding year related to the dates for review and reporting and the next succeeding fiscal year data to evaluate the reduction conditions.
 2. Notwithstanding subparagraph 1. of this paragraph, the department shall not implement an income tax rate reduction without a future action by the General Assembly.

- (d) 1. For taxable years beginning on or after January 1, 2018, but before January 1, 2023, the tax shall be five percent (5%) of net income.
2. *For taxable years beginning on or after January 1, 2023, but before January 1, 2024, the tax shall be four and one-half percent (4.5%) of net income.*
3. *For taxable years beginning on or after January 1, 2024, the tax shall be four percent (4%) of net income.*
- (e) For taxable years beginning after December 31, 2004, and before January 1, 2018, the tax shall be determined by applying the following rates to net income:
1. Two percent (2%) of the amount of net income up to three thousand dollars (\$3,000);
 2. Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);
 3. Four percent (4%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);
 4. Five percent (5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000);
 5. Five and eight-tenths percent (5.8%) of the amount of net income over eight thousand dollars (\$8,000) and up to seventy-five thousand dollars (\$75,000); and
 6. Six percent (6%) of the amount of net income over seventy-five thousand dollars (\$75,000).
- (3) (a) The following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) of this section to arrive at the annual tax:
1. a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) for an unmarried individual; and
 - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) for an unmarried individual;
 2. a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) for a married individual filing a separate return and an additional twenty dollars (\$20) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars (\$40) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code; and
 - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) for a married individual filing a separate return and an additional ten dollars (\$10) for the spouse of a taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or twenty dollars (\$20) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;
 3. a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her spouse; and
 - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her spouse;
 4. An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;
 5. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of

- the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
6. An additional forty dollars (\$40) credit if the taxpayer is blind at the close of the taxable year;
 7. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer; and
 8. An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.
- (b) In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:
1. The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or
 2. Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse.
- (c) In the case of a part-year resident, the tax credits allowable under this subsection shall be the portion of the credits represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code.
- (4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as herein provided, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation, or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by the individual from labor performed, business done, or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. For taxable years beginning on or after January 1, 2021, but before January 1, 2025, the tax imposed by this section shall not apply to a disaster response employee or to a disaster response business. The remainder of the income received by such nonresident shall be deemed nontaxable by this state.
- (5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.
- (6) A part-year resident is subject to taxation, as prescribed in subsection (1) of this section, during that portion of the taxable year that the individual is a resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when the individual is a nonresident.

Signed by Governor February 17, 2023.

CHAPTER 4

(HB 594)

AN ACT relating to the regulation of game machines.

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

➔Section 1. KRS 528.010 is amended to read as follows:

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

- (1) "Advancing gambling activity" -- A person "advances gambling activity" when, acting other than as a player, he *or she* engages in conduct that materially aids any form of gambling activity. The conduct shall include, but is not limited to, conduct directed toward the establishment of the particular game, contest, scheme, device, or activity involved; toward the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor; toward the solicitation or inducement of persons to participate therein; toward the actual conduct of the playing phases thereof; toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person who gambles at a social game of chance on equal terms with other participants does not otherwise advance gambling activity by performing acts, without remuneration or fee, directed toward the arrangement or facilitation of the game as inviting persons to play, permitting the use of premises therefor and supplying equipment used therein;
- (2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets upon the outcome of future contingent events from members of the public as a business;
- (3) "Charitable gaming" means games of chance conducted by charitable organizations licensed and regulated under the provisions of KRS Chapter 238;
- (4)
 - (a) *"Coin-operated amusement machine" means a lawful machine or device that requires the direct or indirect payment of consideration, including but not limited to the insertion of a coin, currency, ticket, token, or similar object, or the depositing of funds with the operator or owner of the device, and that contains no material element of chance and automatically, by or through some mechanical operation, affords music or amusement of some character with or without vending any merchandise, but in addition to any merchandise.*
 - (b) *A coin-operated amusement machine shall not deliver or entitle the person playing or operating the game to receive cash, cash equivalents, gift cards, or vouchers, billets, tickets, tokens, electronic credits or any item that can be exchanged for cash, cash equivalents, gift cards, merchandise, or something of value, unless otherwise provided under this section.*
 - (c) *A coin-operated amusement machine may entitle the person playing to a noncash, merchandise prize or a voucher, billet, ticket, token, or electronic credit redeemable only for a noncash, merchandise prize under the following rules:*
 1. *The wholesale value of a merchandise prize awarded as a result of the single play of a machine, either directly or as a result of redemption of a redeemable voucher, does not exceed twenty-five dollars (\$25);*
 2. *Redeemable vouchers are not redeemable for any merchandise prize that has a wholesale value of more than twenty-five dollars (\$25) times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and*
 3. *Any redeemable vouchers or merchandise prizes are distributed at the site of the coin-operated amusement machine at the time of play.*
 - (d) *The noncash merchandise prize shall not be:*
 1. *An alcoholic beverage;*
 2. *Eligible for purchase or repurchase; or*
 3. *Exchangeable for any cash, cash equivalents, or something of value whatsoever;*
- (5) (a) *"E-sports competition" means a league, competitive circuit, tournament, or similar competition in which:*
 1. *Two (2) or more participants or teams of participants compete directly against each other for entertainment and prizes in the same video game at the same time, typically for spectators;*
 2. *Results are determined solely on the basis of the skill of the players;*
 3. *The number of participants is fixed before the beginning of the competition;*
 4. *Any fee collected to participate in the competition shall be collected from all participants before the competition begins;*

5. *At least one (1) participant shall receive something of value based on the results of the competition; and*
 6. *The value of any prize shall be predetermined before the competition begins.*
- (b) *E-sports shall not include traditional casino games which include but are not limited to poker, roulette, craps, or blackjack;*
- (6) (a) "Gambling" means staking or risking something of value upon the outcome of a contest, game, gaming scheme, or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome. **"Gambling" includes playing or offering for play any game, contest, or competition utilizing a gambling device.**
- (b) **"Gambling" does not include:**
1. A contest or game in which eligibility to participate is determined by chance and the ultimate winner is determined by skill;
 2. *Charitable gaming which is licensed and regulated under the provisions of KRS Chapter 238;*
 3. *E-sports competitions;*
 4. *Skill-based contests; or*
 5. *The use or operation of any devices or machines that are described in subsection (7)(b) of this section*~~[shall not be considered to be gambling.~~
- ~~(b) — Gambling shall not mean charitable gaming which is licensed and regulated under the provisions of KRS Chapter 238;~~
- (7) (a) ~~[(5)]~~ "Gambling device" means:
- 1.~~[(a)]~~ Any so-called slot machine or any other machine or mechanical device~~[an essential part of which is a drum or reel with insignia thereon, and]~~ which when operated may deliver, as a result of the application of ~~any~~~~[an]~~ element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of ~~any~~~~[an]~~ element of chance, any money or property;
 - 2.~~[(b)]~~ Any mechanical or electronic device permanently located in a business establishment, including a private club, that is offered or made available to a person to play or participate in a simulated gambling program in return for direct or indirect consideration, including but not limited to consideration paid for Internet access or computer time, or a sweepstakes entry, which when operated may deliver as a result of the application of ~~any~~~~[an]~~ element of chance, **regardless of whether the result is also partially or predominantly based on skill**, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of ~~any~~~~[an]~~ element of chance, **regardless of whether the result is also partially or predominantly based on skill**, any money or property;~~[or]~~
 - 3.~~[(c)]~~ Any other machine or any mechanical, **electronic**, or other device, including but not limited to roulette wheels, gambling tables and similar devices, designed and manufactured primarily for use in connection with gambling and which when operated may deliver, as the result of the application of ~~any~~~~[an]~~ element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of ~~any~~~~[an]~~ element of chance, any money or property; **or**
 4. **Any electronic, computerized, or mechanical contrivance, terminal, machine, or other device that:**
 - a. **Requires the direct or indirect payment of consideration which may include and shall not be limited to the insertion of a coin, currency, ticket, token, or similar object, or by depositing funds with the operator or owner of the device, to operate, play, or activate a game; and**
 - b. **Offers games the outcomes of which are determined by any element of skill of the player and may deliver or entitle the person playing or operating the device to receive cash, cash equivalents, or gift cards or vouchers, billets, tickets, tokens, or electronic**

credits to be exchanged for cash or to receive merchandise or something of value, whether the payoff is made automatically from the device or manually.

(b) ~~The~~~~(4)~~ — ~~But, the~~ following shall not be considered gambling devices within this definition:

1. Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks;
2. Devices dispensing or selling combination or French pools on historical races at licensed, regular racetracks as lawfully authorized by the Kentucky Horse Racing Commission;
3. Electro-mechanical pinball machines specially designed, constructed, set up, and kept to be played for amusement only. Any pinball machine shall be made to receive and react only to the deposit of coins during the course of a game. The ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any pinball machine shall be the right to play one (1) or more additional games immediately on the same device at no further cost. The maximum number of free games that can be won, registered, or accumulated at one (1) time in operation of any pinball machine shall not exceed thirty (30) free games. Any pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released. Any pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded, or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums, or property of any kind for scores, combinations, or free games obtained in playing the pinball machine in which the person has an interest as owner, operator, keeper, or otherwise; ~~or~~
4. Devices used in the conduct of charitable gaming;
5. *Coin-operated amusement machines;*
6. *Devices used for wagering exempted from the application of this chapter pursuant to KRS 436.480;*
7. *Devices used in e-sports competitions; or*
8. *Devices used in skill-based contests, provided such devices do not meet the definition of gambling devices in paragraph (a) of this subsection;*

~~(8)~~~~(6)~~ "Lottery and gift enterprise" means:

- (a) A gambling scheme in which:
 1. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one (1) or more of which are to be designated the winning ones; and
 2. The ultimate winner is to be determined by a drawing or by some other method based upon the element of chance; ~~and~~
 3. The holders of the winning chances are to receive something of value; and
- (b) A gift enterprise or referral sales plan which meets the elements of a lottery listed in paragraph (a) of this subsection is to be considered a lottery under this chapter;

~~(9)~~~~(7)~~ "Mutuel" or "the numbers games" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme;

~~(10)~~~~(8)~~ "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct, or operation of the particular gambling activity. A person who engages in "bookmaking" as defined in subsection (2) of this section is not a "player." The status of a "player" shall be a defense to any prosecution under this chapter;

~~(11)~~~~(9)~~ "Profiting from gambling activity" -- A person "profits from gambling activity" when, other than as a player, he *or she* accepts or receives or agrees to accept or receive money or other property pursuant to an

agreement or understanding with any person whereby he *or she* participates or is to participate in the proceeds of gambling activity;

- (12)~~(10)~~ "Simulated gambling program" means any method intended to be used by a person playing, participating, or interacting with an electronic device that may, through the application of ~~any~~^{an} element of chance, either deliver money or property or an entitlement to receive money or property;~~and~~
- (13) *"Skill" means the knowledge, dexterity, or any other ability or expertise of a natural person;*
- (14) *"Skill-based contest" means a live, in-person competitive event among two (2) or more individuals or teams of individuals in which the ultimate winner is determined by skill and the competitive event does not utilize a gambling device; and*
- (15)~~(14)~~ (a) "Something of value" means any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment, or a privilege of playing at a game or scheme without charge.
- (b) *"Something of value" does not include the award of a free, extended, or continuous play which is awarded as a prize for playing a game or scheme for a charge.*

➔Section 2. KRS 528.100 is amended to read as follows:

- (1) Any gambling device or gambling record possessed or used in violation of this chapter is forfeited to the state, and shall be disposed of in accordance with KRS 500.090~~, except that the provisions of this section shall not apply to charitable gaming activity as defined by KRS 528.010(3)].~~
- (2) *In addition to any other penalty provided by law, any person who conducts, finances, manages, supervises, directs, or owns a gambling device intended for use in the Commonwealth in violation of this chapter shall be subject to a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each device, payable to the county in which the device was operated.*
- (3) *The Attorney General, the Commonwealth's attorney for any locality, or the county attorney for any locality may cause an action in equity to be brought in the name of the Commonwealth or of the locality, as applicable, to:*
- (a) *Enjoin the operation of a gambling device in violation of this section;*
- (b) *Request an attachment against all such devices and any moneys within those devices pursuant to KRS 500.090; and*
- (c) *Recover the civil penalty not to exceed twenty-five thousand dollars (\$25,000) per device.*

Signed by Governor March 16, 2023.

CHAPTER 5

(SB 72)

AN ACT relating to motor vehicle titles.

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

➔Section 1. KRS 186A.170 is amended to read as follows:

- (1) The Department of Vehicle Regulation shall:
- (a) Within five (5) working days following receipt by it of an application for a certificate of title in proper form, process the application and its supporting documents in the manner provided in this section, and unless it finds discrepancies with respect to it or its supporting documents, issue a certificate of title in the name of the owner and send it postpaid to such owner;~~and~~
- (b) Within forty-eight (48) hours following electronic notification by a county clerk's office of an application for a certificate of title, issue a speed title which shall be held for pickup or returned to the owner by mail. The clerk shall take the application for title and process the appropriate paperwork as

provided for in this chapter. *Subject to the limitations outlined in paragraph (c) of this subsection*, the department may provide, by administrative regulation, for exceptions to the speed title procedure; *and*

- (c) *Not exempt vehicles with salvage and rebuilt titles from the speed title procedures, but may extend the processing time on salvage and rebuilt title applications for which the documentation is complete and accurate for up to:*
1. *Fifteen (15) business days for rebuilt vehicles that have been branded as unrebuildable in another state under KRS 186A.530(5) and (6); and*
 2. *Five (5) business days for all other salvage and rebuilt vehicles.*
- (2) Upon receiving an application packet from a county clerk, the application receipt clerk of the Department of Vehicle Regulation shall:
- (a) Cause the date and time of receipt to be stamped on both the department's copy and the acknowledgment copy of the application transmittal record and accompanying documents;
 - (b) Cause at least duplicate sets of images to be made of each transmittal record application and supporting document by a means that will provide rapid, selective, automated retrieval of individual document images by appropriate indexing methods or keys; and
 - (c) Compare the application transmittal record with the documents accompanying it and, if all applications shown upon the record are accompanying the record, endorse the department's copy of the transmittal record and the acknowledgment copy, and forward the acknowledgment copy to the clerk who issued it.
- (3) In the event there is a discrepancy between the application transmittal record and the application attached to it, the Department of Vehicle Regulation shall note the discrepancy upon the department's copy and the acknowledgment copy, and shall promptly contact the issuing clerk and resolve the discrepancy. After resolving the discrepancy, the department shall note the nature of the disposition of the discrepancy and endorse the respective copies and forward the acknowledgment copy with the discrepancy disposition noted thereon to the issuing clerk.
- (4) After executing the acknowledgment of receipt of applications, the Department of Vehicle Regulation shall carry out the following action with respect to each application:
- (a) Examine the owner's application for legibility and proper execution, presence of required information, including required supporting documents, and the presence of required signatures. The Department of Vehicle Regulation shall ensure also that the required supporting documents are consistent in pertinent part with the information shown on the owner's application;
 - (b) The documents supporting an owner's application shall be examined as to authenticity and to determine if fraudulent alteration has occurred;
 - (c) Ensure that the vehicle identification number of the subject vehicle is apparently legitimate;
 - (d) Ensure that the vehicle identification number and any other appropriate information with respect to a vehicle for which a certificate of title has been applied for is compared against the National Crime Information Center (NCIC) computerized listings of vehicles reported stolen, unless NCIC is not operational and the department has official notification that it is not expected to be operational within four (4) working days following the day on which an application for a certificate of title is received by it; and
 - (e) Compare the computer-produced certificate of title for consistency with the owner's application and supporting documents.
- (5) When the title application has been completed, and the application examiner at each significant stage has indicated, by placing his *or her* unique symbol upon the application in the space provided thereon, that an application has passed the required examinations, the application shall be examined by a title examination certifier.
- (6) The title application certifier shall ensure that each application has received the required examinations as indicated by the presence of each required examiner's symbol. Upon satisfying himself *or herself* that an application has passed the required examinations, the title examination certifier shall place his *or her* unique symbol together with the date upon the application.

- (7) The Department of Vehicle Regulation shall withhold issuance of a title, until its questions are resolved to its satisfaction, when it finds material discrepancies or has information giving probable cause to believe:
- (a) That an applicant is not the lawful owner of a vehicle for which he *or she* seeks a title;
 - (b) His *or her* application is not in order;
 - (c) The documentation supporting an application is insufficient or fraudulent;
 - (d) The vehicle has an illegitimate vehicle identification number;
 - (e) The vehicle is stolen; or
 - (f) That the computer-produced certificate of title is not consistent with the owner's application.
- (8) In the case of multiple owners, the Department of Vehicle Regulation shall require only two (2) primary owners' names to be printed on the certificate of title. Upon submission of the title application, if more than two (2) owners are listed, the primary owners shall be determined by the title applicants. In such instances, the certificate of the title shall note that there are more than two (2) owners. The names of all title applicants shall be documented in AVIS.
- (9) When the Department of Vehicle Regulation finds that a certificate of title should be issued for a vehicle, the endorsement of the commissioner of the Department of Vehicle Regulation shall be engrossed upon the certificate of title following a preprinted statement which shall read: I certify that the Department of Vehicle Regulation has exercised due diligence in examining an application for a certificate of title for the above-described vehicle, and to the best of our knowledge and belief, the applicant whose name appears above is the lawful owner of the apparently legitimate vehicle described herein. ----- (signature), commissioner, Department of Vehicle Regulation, Kentucky Transportation Cabinet.

Signed by Governor March 16, 2023.

CHAPTER 6

(HB 217)

AN ACT relating to titling of motor vehicles.

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

➔Section 1. KRS 186A.005 (Effective January 1, 2024) is amended to read as follows:

As used in this chapter:

- (1) "Approved entity" means:
 - (a) A motor vehicle dealer licensed under KRS Chapter 190 that applies to and is approved by the Transportation Cabinet to facilitate the title application *or salvage title application* process through the electronic title application and registration system;
 - (b) A state or federal financial institution chartered under the laws of this state, any other state, or the United States as a bank insured by the Federal Deposit Insurance Corporation (FDIC), bank holding company, trust company, credit union, savings and loan association, or a holding company or service corporation subsidiary thereof, or any agent of any of the entities listed in this paragraph;
 - (c) An owner of a fleet as defined in this section that applies to and is approved by the Transportation Cabinet to facilitate renewal of registration or maintenance of permanent registration under KRS 186A.127 through the electronic title application and registration system; and
 - (d) A retailer of manufactured homes, mobile homes, or recreational vehicles, as defined in KRS 227.550, that applies to and is approved by the Transportation Cabinet to facilitate the title application process through the electronic title application and registration system;
- (2) "Cabinet" means the Transportation Cabinet;

- (3) "Electronic title application and registration system" means a system established under KRS 186A.017 by which title applications, *salvage title applications*, title lien statements, other supporting documents, signatures, and fees are input and transmitted through the title application and registration process in an electronic format;
- (4) "Fleet" means:
- (a) A group of at least one hundred fifty (150) U-Drive-It vehicles owned by the holder of a U-Drive-It certificate; or
 - (b) A group of at least ten (10) nonapportioned commercial motor vehicles owned by a company and used for business purposes; and
- (5) "Title lien statement" means a document, submitted by a secured party or authorized agent, to the cabinet through any county clerk's office in the Commonwealth, to note the security interest on the certificate of title, or to amend or terminate a security interest on the certificate of title.

➔Section 2. KRS 186A.017 (Effective January 1, 2024) is amended to read as follows:

- (1) The cabinet shall establish an electronic title application and registration system which allows the submission of the required forms and signatures electronically in lieu of the paper~~[title]~~ application process **for titles and salvage titles**.
- (2) The electronic title application and registration system established under this section shall:
- (a) Collect all the necessary information required under KRS 186A.060;
 - (b) Collect and electronically transmit all fees imposed under KRS 186.040, 186.050, 186.162, and 186A.130, any fees imposed under subsection (6) of this section, and the motor vehicle use tax levied under KRS 138.460;
 - (c) Accept electronic signatures which satisfy the requirements of KRS 369.101 to 369.120; and
 - (d) Transmit the information in a secure manner.
- (3) An approved entity that wishes to use the electronic title application and registration system shall transmit all application documents, required electronic signatures, and fees through the system to the county clerk of the county in which either the purchaser of the vehicle resides or the motor vehicle dealer selling the vehicle is located. **If the electronic title application and registration is operational**, a county clerk who receives an application transmitted through the system shall, by 3 p.m. the next business day, either:
- (a) Accept the application and forward it to the cabinet; or
 - (b) Reject the application and return it to the approved entity.
- (4) An entity that wishes to become an approved entity for the purposes of this chapter shall submit an application to the cabinet, along with a one hundred fifty dollar (\$150) application fee. If approved, the entity shall pay an annual registration fee to the cabinet. All fees collected under this subsection shall be deposited into the road fund.
- (5) The cabinet shall enter into contracts with qualified third-party providers to integrate with AVIS and other systems to provide software and programs to approved entities to facilitate electronic vehicle registration, titling, and filing of title lien statements. A third party that contracts with the cabinet under this section may act on behalf of the cabinet and county clerks in receiving, processing, and transmitting to the county clerk title and registration applications, *salvage title applications*, title lien statements, and related documents and fees.
- (6) Any agreement with the cabinet and a third-party provider under subsection (5) of this section shall authorize an online transaction fee to be charged by the third-party provider to an approved entity. A motor vehicle dealer licensed under KRS Chapter 190 who uses the electronic title application and registration system to file the documentation necessary to obtain a certificate of title, *salvage title*, or registration for the purchaser of a vehicle shall collect from the purchaser any fees charged for the transaction by the third-party provider. The dealer shall remit fees collected under this subsection to the county clerk through the electronic title application and registration system. **Except for salvage title applications**, any transaction fee charged under this subsection shall be listed separately on the buyer's order and identified as "~~online~~~~[on-line]~~ system filing fee."
- (7) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish qualifications for approved entities and procedures for the electronic title application and registration system.

➔Section 3. KRS 186A.120 (Effective January 1, 2024) is amended to read as follows:

- (1) Except for applications for title *or salvage title* using the electronic title application and registration system established under KRS 186A.017, application for a first certificate of registration or title and plate shall be made by the owner to the county clerk of the county in which the owner resides, except that, if a vehicle is purchased from a dealer other than in the county in which the purchaser for use resides, the purchaser, or the dealer on behalf of the purchaser, may make application for registration to the county clerk in either the county in which the purchaser resides, or in the county in which the dealer's principal place of business is located.
- (2) (a) When purchaser of a vehicle upon which a lien is to be recorded is a resident of a county other than that of the dealer, the application for registration or title may be made to the county clerk in either county. The lien must be recorded in the county of the purchaser's residence.
- (b) If vehicle application for registration or title is presented to the county clerk of dealer's location rather than purchaser's residence, the clerk shall process documents in a manner similar to that of any application, with the exception that the AVIS system shall be programmed in a manner that the title shall not be issued from Frankfort until the lien information has been entered by the county clerk of the purchaser's residence.
- (3) (a) A new vehicle, when first registered or titled in this state, shall be registered or titled in the name of the first owner for use rather than in the name of a dealer who held the vehicle for sale.
- (b) Except as otherwise provided in this chapter, a used vehicle not previously registered or titled in this state shall be registered or titled in the name of the first owner for use rather than in the name of a dealer who held the vehicle for resale.
- (4) If the owner of a vehicle required to be registered or titled in this state does not reside in the Commonwealth, the vehicle shall be registered or titled with the county clerk of the county in which the vehicle is principally operated.
- (5) If the owner of a vehicle is other than an individual and resides in the Commonwealth, the vehicle shall be registered or titled with the county clerk in either the county in which the owner resides or in the county in which the vehicle is principally operated.

➔Section 4. KRS 186A.125 (Effective January 1, 2024) is amended to read as follows:

- (1) Except as provided in subsection (5) of this section, application for a first certificate of registration, or title, in the name of an owner shall be made on forms prescribed by the Department of Vehicle Regulation consistent with this chapter, which shall be available from any county clerk *or on the Transportation Cabinet's website*.
- (2) Application forms shall be completed, except as to required signatures, by legibly printing in ink, or typing all required information.
- (3) The application, when presented to the county clerk, shall contain all required information and be fully executed with all required supporting documentation and fees.
- (4) The county clerk shall reject any application upon which the information provided is not legibly printed or typed, the required information is not supplied, not accompanied by required supporting documents, not properly executed with signatures when required, or when the clerk determines that the application is improper or that the applicant is not entitled to registration or title of the vehicle for which registration or title is sought, or in the absence of the required fees.
- (5) This section shall not apply to applications for title *or salvage title* using the electronic title application and registration system established under KRS 186A.017.

➔Section 5. KRS 186A.165 (Effective January 1, 2024) is amended to read as follows:

- (1) Except as provided in ~~subsections~~^{subsection} (4) *and* (5) of this section, not later than 3 p.m. on the next business day after an application for a certificate of registration, ~~or~~ title and registration, *or salvage title* for a vehicle is received, the county clerk shall complete a transmittal record.
- (2) The clerk shall indicate thereon in the spaces provided, the name of his or her county, the date or time period the transmittal relates to and, in the order they are to be attached to the transmittal record, a notation for each application attached consisting of the applicant's last name and initials or if the applicant is other than an individual, the name commonly used by the applicant and any other information required upon the form as indicated thereon.

- (3) The clerk shall ensure that the original of all applications noted on the transmittal, together with the original of all required supporting documents are attached to the transmittal record in the order shown thereon, and shall thereafter sign and date the original of the transmittal record as of the date the transmittal is being forwarded to Frankfort.
- (4) This section shall not apply to applications for title *or salvage title* using the electronic title application and registration system established under KRS 186A.017.
- (5) ***If, at any time, the operational capabilities of AVIS do not allow the electronic completion of a transmittal record under subsection (1) of this section, and require the clerk to manually copy and input documents into the transmittal record, the deadlines outlined in subsection (1) of this section shall not apply.***

➔Section 6. KRS 186A.520 is amended to read as follows:

- (1) Except as provided in KRS 186A.555, a salvage title shall be obtained by the owner of a motor vehicle that meets the following definition of a salvage vehicle:
 - (a) A vehicle which has been wrecked, destroyed, or damaged, to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the vehicle to its preaccident condition and for legal operation on the roads or highways, not including the cost of parts and labor to reinstall a deployed airbag system, exceeds seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Automobile Dealer's Association price guide.
 - (b) The value of repair parts for purposes of this definition shall be determined by using the current published retail cost of the parts equal in kind and quality to the parts to be replaced or the actual retail cost of the repair parts used in repair.
 - (c) The labor costs of repairs for purposes of this section shall be computed by using the hourly labor rate and time allocations which are reasonable and customary in the automobile repair industry in the community where the repairs are performed.
 - (d) Airbag reinstallation costs which are excluded from the seventy-five percent (75%) computation as set forth in paragraph (a) of this subsection shall be included by an insurer in the computation of the total physical damage estimate according to the terms and conditions of individual policies, provided that the total costs payable by an insurer do not exceed the total retail value of the vehicle.
- (2) The owner or an authorized agent of a motor vehicle that meets the definition of a salvage vehicle as set forth in subsection (1) of this section shall, within fifteen (15) days from the receipt of all necessary paperwork required by this chapter, submit an application to the county clerk, on a form prescribed by the Department of Vehicle Regulation, for a salvage title, accompanied by a properly endorsed certificate of title and any lien satisfactions, if any appear, as may be required.
- (3) The county clerk shall retain a copy of each salvage title application received and shall forward the original and its supporting documents to the Department of Vehicle Regulation in a manner similar to that for handling of an application for a title.
- (4) The county clerk shall rely on the information provided by the owner or authorized agent, including a county of residence designation, on:
 - (a) Any approved, notarized state form utilized in lien titling or the title transfer process signed by the owner or authorized agent; and
 - (b) Any document submitted during the transfer of a salvage vehicle from an owner to an insurer.

Reliance on the foregoing by the county clerk shall relieve the office of the county clerk from liability to any third party claiming failure to comply with this section.
- (5) The Department of Vehicle Regulation shall process the salvage title application in a manner similar to that used in processing a title application and the salvage title shall be delivered in a like manner of a title. Salvage titles shall be construed as proof of ownership of a vehicle in a state as to be unusable upon the highways of the Commonwealth. ~~[A vehicle shall not be issued a registration for highway use as long as a salvage title is in force.]~~
- (6) ***A vehicle shall not be issued a registration for highway use as long as a salvage title is in force.*** The only time a vehicle with a salvage title may be operated upon the highways of the Commonwealth is when it is in route to or from an inspection by the certified inspector prior to obtaining a certificate of title after having been rebuilt as per KRS 186.115.

- (7) Notwithstanding the provisions of KRS 369.103, when a salvage vehicle is transferred from an owner to an insurer, the following shall be exempted from the requirements of notarization, including exemption from the notarization of electronic signature requirements of KRS Chapter 423:
- (a) The transfer of ownership on the certificate of title;
 - (b) Any power of attorney required in connection with the transfer of ownership to the insurer;
 - (c) Any required odometer disclosure statement;
 - (d) The application for a salvage certificate of title; and
 - (e) The transfer of ownership on the salvage certificate of title issued.
- (8) ***Subsections (2) to (5) of this section shall not apply to applications for salvage title using the electronic title application and registration system established under Section 2 of this Act.***

➔Section 7. 2022 Ky. Acts ch. 18, sec. 19, is amended to read as follows:

"Section 19. ***Sections 1 to 5 and 12 to 18 of this Act take***~~take~~ **effect January 1, 2024, and Sections 6 to 11 of this Act take effect January 1, 2025."**

➔Section 8. Section 6 of this Act takes effect January 1, 2024.

Signed by Governor March 16, 2023.

CHAPTER 7

(HB 150)

AN ACT relating to motor vehicle dealers.

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

➔Section 1. KRS 190.010 is amended to read as follows:

As used in this chapter:

- (1) "Manufacturer" means any person, partnership, firm, association, corporation, or trust, resident or nonresident, who manufactures or assembles new motor vehicles, or imports for distribution through distributors of new motor vehicles, or any partnership, firm, association, joint venture, corporation, or trust, resident or nonresident, which is controlled by the manufacturer. Additionally, the term "manufacturer" shall include the following terms:
- (a) "Distributor" which means any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers, or who maintains factory representatives, or who controls any person, firm, association, corporation, or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers;
 - (b) "Factory branch" which means a branch office maintained by a manufacturer for the purpose of selling, or offering for sale, new motor vehicles to a distributor, wholesaler, or new motor vehicle dealer, or for directing or supervising, in whole or in part, factory or distributor representatives, and shall further include any sales promotion organization, whether the same be a person, firm, or corporation, which is engaged in promoting the sale of new motor vehicles in this state of a particular brand or make to new motor vehicle dealers;
 - (c) "Factory representative" which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of his *or her*, its, or their new motor vehicles, or for supervising or contracting with his *or her*, its, or their dealers, or prospective dealers;
 - (d) "Distributor branch" which means a branch office similarly maintained by a distributor or wholesaler for the same purposes; and

- (e) "Distributor representative" which means a representative similarly employed by a distributor, distributor branch, or wholesaler;
- (2) "Motor vehicle dealer" means any person not excluded by subsection (3) of this section, engaged in the business of selling, offering to sell, soliciting, or advertising the same, of new or used motor vehicles, or possessing motor vehicles for the purpose of resale, either on his *or her* own account, or on behalf of another, either as his *or her* primary business or incidental thereto;
- (3) The term "motor vehicle dealer" shall not include:
 - (a) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, and any bank, trust company, or lending institution that is subject to state or federal regulation, with regard to its disposition of repossessed motor vehicles;
 - (b) Public officers while performing their official duties; or
 - (c) Employees of persons enumerated in paragraphs (a) and (b) of this subsection, when engaged in the specific performance of their duties as employees;
- (4) "New motor vehicle dealer" means a vehicle dealer who holds a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the manufacturer's new motor vehicles;
- (5) "New motor vehicle dealership facility" means an established place of business which is being used or will be used primarily for the purpose of selling, buying, displaying, repairing, and servicing motor vehicles;
- (6) "Used motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in used motor vehicles or autocycles as defined in KRS 186.010, but shall not mean any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing his *or her* official duties;
- (7) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, or other contractual arrangement under which a charge is made for its use at a periodic rate for at least a monthly term, and title to the motor vehicle is in a person other than the user, but shall not mean a manufacturer or its affiliate leasing to its employees or to dealers;
- (8) "Restricted motor vehicle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises specialized motor vehicles including, but not limited to, funeral coaches, emergency vehicles, and an automotive recycling dealer engaged in the business of dismantling, salvaging, or recycling salvage motor vehicles for the purpose of harvesting used parts, components, assemblies, and recyclable materials for resale, reuse, or reclamation;
- (9) "Motorcycle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises motorcycles, including alternative-speed motorcycles as defined in KRS 186.010 and autocycles as defined in KRS 186.010. Motorcycles shall not include mopeds as defined in this section;
- (10) "Motor vehicle salesperson" means any person who is employed as a salesperson by a motor vehicle dealer to sell motor vehicles, or who is employed as an auctioneer by a motor vehicle auction dealer to sell motor vehicles at auction;
- (11) "Motor vehicle auction dealer" means any person primarily engaged in the business of offering, negotiating, or attempting to negotiate a sale, purchase, or exchange of a motor vehicle through auction;
- (12) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways that is self-propelled including low-speed motor vehicles as defined in KRS 186.010, but shall not include any recreational vehicle or farm tractors and other machines and tools used in the production, harvesting, and care of farm products;
- (13) "New motor vehicle" means a vehicle that is in the possession of the manufacturer, distributor, or wholesaler, or has been sold to the holders of a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of the make of new vehicle, which is new, and on which the original title has not been issued from the franchised dealer;
- (14) "Moped" means a motorized bicycle with pedals whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank, or a motorized bicycle with pedals and with a step through type frame rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an

automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

- (15) "Commission" means the Motor Vehicle Commission;
- (16) "Commissioner" means the commissioner of the department;
- (17) "Department" means the Department of Vehicle Regulation;
- (18) "Licensor" means the commission;
- (19) "Established place of business" means a permanent, enclosed commercial building located within this state, easily accessible and open to the public at all reasonable times, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning, and other land use regulatory ordinances;
- (20) "Person" means a person, partnership, firm, corporation, association, trust, estate, or other legal entity;
- (21) "Franchise" means the agreement or contract between any new motor vehicle manufacturer, written or otherwise, and any new motor vehicle dealer that purports to fix the legal rights and liabilities of the parties to an agreement or contract, and pursuant to which the dealer purchases and resells the franchise product, ***along with any addendums to the franchise agreement***;
- (22) "Good faith" means honesty in fact, and the observance of reasonable commercial standards of fair dealing in the trade, as is defined and interpreted in KRS 355.2-103(1)(b);
- (23) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of a dealer who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership; or who, under the laws of intestate succession of this state is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer;
- (24) "Fraud" means a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made in good faith; or an intentional failure to disclose material fact;
- (25) "Sale" means the issuance, transfer, agreement for transfer, exchange, lease, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest in it, or of any franchise related to it, as well as any option, subscription, other contract, or solicitation looking to a sale, offer to attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto, with or as a bonus on account of the sale of anything, shall be deemed a sale of the motor vehicle or franchise;
- (26) "Automotive mobility dealer" means any motor vehicle dealer who:
 - (a) Exclusively engages in the business of selling, offering to sell, or soliciting or advertising the sale of adapted vehicles;
 - (b) Possesses adapted vehicles exclusively for the purpose of resale, either on his or her own account or on behalf of another, as his or her primary business or incidental thereto; or
 - (c) Engages in the business of selling, installing, or servicing; offering to sell, install, or service; or soliciting or advertising the sale, installation, or servicing of equipment or modifications specifically designed to facilitate use or operation of a motor vehicle by an aging or disabled person;
- (27) "Adapted vehicle" means a new or used motor vehicle especially designed or modified for use by an aging or disabled person;
- (28) "Mobility equipment" means equipment specifically designed to facilitate the use of a motor vehicle by an aging or disabled person;
- (29) "Nonprofit motor vehicle dealer" means a nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code that purchases motor vehicles that it may offer for purchase to clients and other individuals who meet the definition of client as defined in this section and who are referred to the organization by public or private social service agencies;

(30) "Client" means a person who has an open case file with a nonprofit organization or governmental agency and who meets the standards for disability or disadvantaging condition as established in administrative regulations promulgated by the commission pursuant to KRS 190.032(4);

(31) "Recreational vehicle" means a vehicle that:

- (a) Is primarily designed as temporary living quarters for noncommercial recreation or camping use;
- (b) Has its own motive power or is towed by another vehicle;
- (c) Is regulated by the National Highway Traffic Safety Administration as a vehicle; and
- (d) Does not require a special highway use permit; and

(32) "New recreational vehicle dealer" means a new recreational vehicle dealer as defined in KRS 190A.010.

➔Section 2. KRS 190.042 is amended to read as follows:

(1) Any owner of a new motor vehicle dealership may appoint by will, or any other written instrument, a designated family member to succeed in the ownership interest of the said owner in the new motor vehicle dealership.

(2) ***Manufacturers shall permit an owner of a new motor vehicle dealership to propose a successor addendum, which shall be subject to the requirements in this section.***

(3) Unless there exists good cause for refusal to honor succession on the part of the manufacturer or distributor, any designated family member of a deceased or incapacitated owner of a new motor vehicle dealership may succeed to the ownership of the new motor vehicle dealership under the existing franchise provided that:

- (a) The designated family member gives the manufacturer or distributor written notice of his or her intention to succeed to the ownership of the new motor vehicle dealership within ninety (90) days of the owner's death or incapacity; and
- (b) The designated family member agrees to be bound by all the terms and conditions of the franchise.

~~(4)~~~~(3)~~ The manufacturer or distributor may request, and the designated family member shall provide, promptly upon said request, personal and financial data that is reasonably necessary to determine whether the succession should be honored.

➔Section 3. KRS 190.045 is amended to read as follows:

(1) Notwithstanding the terms, provisions, or conditions of any franchise or notwithstanding the terms or provisions of any waiver, a manufacturer shall not cancel, terminate, or fail to renew any franchise with a licensed new motor vehicle dealer unless the manufacturer has:

- (a) Satisfied the notice requirement of subsection (4) of this section;
- (b) Has good cause for cancellation, termination, or nonrenewal;
- (c) Has acted in good faith as defined in KRS 190.010(22); and
- (d) Has established the requirements of this subsection in proceedings before the licensor if the action is protested by the new motor vehicle dealer within:

1. ***Thirty (30)***~~fifteen (15)~~ days after receiving notice of the cancellation, termination, or nonrenewal; ***or***

2. ***Fifteen (15) days for a termination for a cause listed in subsection (4)(c) of this section.***

When a protest is filed, the licensor shall inform the manufacturer, distributor, factory branch, or factory representative that a timely protest has been filed and that the manufacturer, distributor, factory branch, or factory representative shall not cancel, terminate, or fail to renew any franchise with the licensed new motor vehicle dealer until the licensor has held a hearing and the licensor has determined that the manufacturer has met its burden under this section.

(2) Notwithstanding the terms, provisions, or conditions of any franchise or the terms or provisions of any waiver, good cause shall exist for the purposes of a termination, cancellation, or nonrenewal when:

- (a) There is a failure by the new motor vehicle dealer to comply with a provision of the franchise which provision is both reasonable and of material significance to the franchise relationship, provided that the

dealer has been notified in writing of the failure within one hundred eighty (180) days after the manufacturer first acquired knowledge of the failure.

- (b) If the failure by the new motor vehicle dealer, defined in paragraph (a) of this subsection, relates to the performance of the new motor vehicle dealer in sales or service, then good cause shall be defined as the failure of the new motor vehicle dealer to comply with reasonable performance criteria established by the manufacturer, if the new motor vehicle dealer was apprised by the manufacturer in writing of a failure, and
 - 1. The notification stated that notice was provided of failure of performance pursuant to this section;
 - 2. The new motor vehicle dealer was afforded a reasonable opportunity, for a period of not less than six (6) months, to comply with the criteria; and
 - 3. The new motor vehicle dealer did not demonstrate substantial progress toward compliance with the manufacturer's performance criteria during the designated period.
- (3) The manufacturer shall have the burden of proof under this section.
- (4) Notwithstanding the terms, provisions, or conditions of any franchise prior to the termination, cancellation, or nonrenewal of any franchise, the manufacturer shall furnish notification of a termination, cancellation, or nonrenewal to the new motor vehicle dealer as follows:
 - (a) In the manner described in subsection (2)(b) of this section; and
 - (b) In not less than ninety (90) days prior to the effective date of the termination, cancellation or nonrenewal; or
 - (c) In not less than fifteen (15) days prior to the effective date of a termination, cancellation, or nonrenewal with respect to any of the following:
 - 1. Insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law;
 - 2. Failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business hours for seven (7) consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer;
 - 3. Fraudulent misrepresentation by the new motor vehicle dealer to the manufacturer or distributor which is material to the franchise;
 - 4. Conviction of the new motor vehicle dealer, or any owner or operator thereof, of any felony which is punishable by imprisonment; or
 - 5. Revocation of any license which the new motor vehicle dealer is required to have to operate a dealership;
 - (d) In not less than one hundred eighty (180) days prior to the effective date of a termination or cancellation where the manufacturer or distributor is discontinuing the sale of the product line.
- (5) Notification under this section shall be in writing by certified mail or personally delivered to the new motor vehicle dealer; and shall contain:
 - (a) A statement of intent to terminate, cancel, or not to renew the franchise; and
 - (b) A statement of the reasons for the termination, cancellation, or nonrenewal; and
 - (c) The date on which the termination, cancellation, or nonrenewal takes effect.
- (6) Upon the termination, nonrenewal, or cancellation of any franchise, pursuant to this section, the new motor vehicle dealer shall be allowed fair and reasonable compensation by the manufacturer for the:
 - (a) New current model year motor vehicle inventory which has been acquired from the manufacturer, and which has not been damaged or altered while in the dealer's possession;
 - (b) Supplies and parts which have been acquired from the manufacturer;
 - (c) Equipment and furnishings provided the new motor vehicle dealer purchased from the manufacturer or its approved sources; and

(d) Special tools.

Fair and reasonable compensation shall be paid by the manufacturer within ninety (90) days of the effective date of termination, cancellation, or nonrenewal, provided the new motor vehicle dealer has clear title to the inventory and other items and is in a position to convey that title to the manufacturer.

- (7) In the event of a termination, cancellation, or nonrenewal under this section, and the new motor vehicle dealer is leasing the dealership facilities from a lessor other than the manufacturer, or owns the dealership facilities, the manufacturer shall pay a reasonable rent to the dealer in accordance with and subject to subsection (8) of this section.
- (8) (a) Reasonable rental value shall be paid only to the extent the dealership premises are recognized in the franchise and only if they are:
1. Used solely for performance in accordance with the franchise; and
 2. Not substantially in excess of those facilities recommended by the manufacturer.
- (b) If the facilities are owned by the dealer, the manufacturer will either:
1. Locate a purchaser who will offer to purchase the dealership facilities at a reasonable price; or
 2. Locate a lessee who will offer to lease the premises for a reasonable term at a reasonable rent; or
 3. Failing the foregoing, lease the dealership facilities at a reasonable rental value for one (1) year.
- (c) If the facilities are leased by the dealer, the manufacturer will either:
1. Locate a tenant or tenants satisfactory to the lessor, who will sublet or assume the balance of the lease; or
 2. Arrange with the lessor for the cancellation of the lease without penalty to the dealer; or
 3. Failing the foregoing, lease the dealership facilities at a reasonable rent for one (1) year.
- (d) The manufacturer shall not be obligated to provide assistance under this section if the dealer:
1. Fails to accept a bona fide offer from a prospective purchaser, sublessee or assignee; or
 2. Refuses to execute a settlement agreement with the lessor if the agreement would be without cost to the dealer; or
 3. Fails to make a written request for assistance under this section within one (1) month of the termination, cancellation, or nonrenewal.
- (e) If, in an action for damages under this section, the manufacturer or distributor fails to prove either that the manufacturer or distributor has acted in good faith or that there was good cause for the franchise termination, cancellation, or nonrenewal, then the manufacturer or distributor may terminate, cancel, or fail to renew the franchise upon payment to the new motor vehicle dealer of an amount equal to the value of the dealership as an ongoing business location.
- (9) Notice of termination to a dealer shall entitle the dealer to continue the franchise and the dealer may attempt to sell the franchise until all of the dealer's appeal rights have been exhausted.

➔Section 4. KRS 190.046 is amended to read as follows:

- (1) Notwithstanding the terms of any franchise agreement, each motor vehicle manufacturer or distributor, doing business within this Commonwealth, shall assume all responsibility for and shall defend, indemnify, and hold harmless its motor vehicle dealers against any loss, damages, and expenses, including legal costs, arising out of complaints, claims, recall repairs or modifications or factory authorized or directed repairs, or lawsuits resulting from warranty defects, which shall include structural or production defects; defects in the assembly; or design of motor vehicles, parts, accessories; or other functions beyond the control of the dealer, including without limitation, the selection of parts or components for the vehicle. Each manufacturer or distributor shall pay reasonable compensation to any authorized dealer who performs work to repair defects, or to repair any damage to the manufacturer's or distributor's product sustained while the product is in transit to the dealer, when the carrier or the means of transportation is designated by the manufacturer or distributor. Each manufacturer or distributor shall provide to its dealers with each model year a schedule of time allowances for the performance of warranty repair work and services, which shall include time allowances for the diagnosis

and performance of warranty work and service time, and shall be reasonable and adequate for the work to be performed.

- (2) In the determination of what constitutes "reasonable compensation" under this section, the principal factor to be considered shall be the amount of money that the dealer is charging its other customers for the same type service or repair work. Other factors may be considered, including the compensation being paid by other manufacturers or distributors to their dealers for work; and the prevailing amount of money being paid or charged by the dealers in the city or community in which the authorized dealer is doing business. "Reasonable compensation" shall include diagnosing the defect *as needed*; repair service; labor; parts and administrative and clerical costs. The compensation of a dealer shall not be less than the amount charged by the dealer for like services and parts, which minimum compensation for parts shall be dealer cost plus thirty percent (30%) gross profit, to retail customers for nonwarranty service and repairs, or less than the amounts indicated for work on the schedule of warranty compensation required to be filed by the manufacturer with the commission as a part of the manufacturer's license application by KRS 190.030. A manufacturer or distributor shall not require unreasonable proof to establish "reasonable compensation."
- (3)
 - (a) A manufacturer or distributor shall not require a dealer to submit a claim authorized under this section sooner than thirty (30) days after the dealer completes the preparation, delivery, or warranty service authorizing the claim for preparation, delivery, or warranty service.
 - (b) All claims made by a dealer under this section shall be paid within thirty (30) days after their approval.
 - (c) All claims shall be either approved or disapproved by the manufacturer or distributor within thirty (30) days after their receipt on a completed form supplied or approved by the manufacturer or distributor.
 - (d) Any claims not specifically disapproved in writing within thirty (30) days after the receipt of the form shall be considered to be approved and payment shall be made within thirty (30) days thereafter.
 - (e) A dealer shall not be required to maintain defective parts for more than thirty (30) days after payment of a claim.
 - (f) Any dispute between the dealer and the manufacturer or distributor shall be subject to the provisions of KRS 190.057.
- (4) A manufacturer or distributor shall compensate the dealer for manufacturer-sponsored or distributor-sponsored sales or service promotion events, including but not limited to rebates, programs, or activities in accordance with established written guidelines for such events, programs, or activities, which the manufacturer or distributor shall provide to each dealer.
- (5)
 - (a) A manufacturer or distributor shall not require a dealer to submit a claim authorized under subsection (4) of this section sooner than thirty (30) days after the dealer becomes eligible to submit the claim.
 - (b) All claims made by a dealer pursuant to subsection (4) of this section for promotion events, including but not limited to rebates, programs, or activities, shall be paid within thirty (30) days after their approval.
 - (c) All claims shall be either approved or disapproved by the manufacturer or distributor within thirty (30) days after their receipt on a completed form supplied or approved by the manufacturer or distributor.
 - (d) Any claim not specifically disapproved in writing within thirty (30) days after the receipt of this form shall be considered to be approved and payment shall be made within thirty (30) days.
- (6) If a dealer submits any claim under this section to a manufacturer or distributor that is incomplete, inaccurate, or lacking any information usually required by the manufacturer or distributor, or if incomplete, inaccurate, or missing information is discovered during an audit, then the manufacturer or distributor shall promptly notify the dealer, and the time limit to submit the claim shall be extended for a reasonable length of time, not less than five (5) business days following notice by the manufacturer or distributor to the dealer, for the dealer to provide the complete, accurate, or lacking information to the manufacturer or distributor. A dealer's failure to comply with the specific requirements of the manufacturer or distributor for processing a claim may not constitute grounds for denial of the claim or reduction of the amount of compensation paid to the dealer if the dealer presents reasonable documentation or other evidence to substantiate the claim.
- (7)
 - (a) A manufacturer or distributor may only audit warranty, *recall*, sales, or incentive claims for a period of twelve (12) months following payment, or the end of a program which does not exceed one (1) year in length, whichever is later, subject to all of the provisions of this section.

- (b) A manufacturer or distributor shall not require documentation for warranty, **recall**, sales, or incentive claims more than twelve (12) months after the claim was paid or the end of a program which does not exceed one (1) year in length, whichever is later.
- (c) Prior to requiring any charge-back, reimbursement, or credit against a future transaction arising out of an audit, the manufacturer or distributor shall submit written notice to the dealer along with a copy of its audit and the detailed reason for each intended charge-back, reimbursement, or credit.
- (d) **Notwithstanding** the limitations of this subsection, ~~do not apply if the~~ a manufacturer **that possesses evidence which would cause a person of ordinary caution, prudence, and judgment to believe that a dealer submitted a claim that was fraudulent, false, or misleading may audit the dealer for the claims during any period in which an action for fraud or for the submission of false or misleading claims may be commenced under applicable state law** ~~for distributor can prove fraud on a claim~~.

➔Section 5. KRS 190.070 is amended to read as follows:

- (1) It shall be a violation of this section for any manufacturer, distributor, factory branch, or factory representative licensed under this chapter, **either directly or indirectly**, to require any new motor vehicle dealer in the Commonwealth:
 - (a) To order or accept delivery of any motor vehicle, part or accessory thereof, appliances, equipment, or any other product not required by law, which shall not have been voluntarily ordered by the new motor vehicle dealer; except that this section is not intended to modify or supersede any terms or provisions of the franchise requiring new motor vehicle dealers to market a representative line of those motor vehicles which the manufacturer or distributor is publicly advertising; ~~;~~
 - (b) To order or accept delivery of any new motor vehicle with special features, appliances, accessories, or equipment not included in the list price of the motor vehicle, as publicly advertised by the manufacturer or distributor; ~~;~~
 - (c) To order for any person any parts, accessories, equipment, machinery tools, appliance, or any commodity whatsoever not required in connection with a recall campaign; ~~;~~
 - (d) To participate monetarily in an advertising campaign or contest, any promotional materials, training materials, showroom or other display decorations, or materials, at the expense of the dealer, without the consent of the dealer; ~~;~~
 - (e) To enter into any agreement with the manufacturer, distributor, factory branch, or factory representative, or to do any other act prejudicial to the new motor vehicle dealer by threatening to cancel a franchise or any contractual agreement existing between the dealer and the manufacturer, distributor, factory branch, or factory representative. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of the dealer's franchise, or contractual agreement shall not constitute a violation of this law; ~~;~~
 - (f) To change the capital structure of the dealership, or the means by or through which the dealer finances the operation of the dealership, provided that the dealership at all times meets any reasonable capital standards agreed to by the dealer, excluding any entity engaged primarily in providing financing or insurance on motor vehicles; ~~;~~
 - (g) To refrain from participation in the management or investment in, or the acquisition of any other line of new motor vehicle or related products; provided, however, that this section does not apply unless the new motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicles, and that the new motor vehicle dealer remains in substantial compliance with the terms and conditions of the franchise and with any reasonable facility requirements of the manufacturer, and no change is made in the principal management of the new motor vehicle dealership; ~~;~~
 - (h) To change **the** location of the dealership ~~;~~ or ~~to~~, during the course of the agreement, make any substantial alterations to **the same components of** the dealership premises:
 1. **Within ten (10) years of a previously required improvement, alteration, or construction to those same components; or** ~~;~~
 2. When to do so, would be unreasonable in light of the current economic, political, and social considerations; ~~;~~

- (i) To prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by this law, or to require any controversy between a dealer and a manufacturer, distributor, or representative, to be referred to any person other than the duly constituted courts of the Commonwealth or the United States of America, or to the commissioner, if the referral would be binding upon the dealer;[-]
 - (j) To establish or maintain exclusive facilities, personnel, display space, or signage for a new motor vehicle make or line; ~~or~~[-]
 - (k) To expand facilities without making available a sufficient supply of new motor vehicles to support the expansion in light of the market and economic conditions.
- (2) It shall be a violation of this section for any manufacturer, distributor, factory branch, or factory representative, ***either directly or indirectly***:
- (a) To delay, refuse, or fail to deliver motor vehicles, or vehicle parts or accessories in reasonable quantities relative to the new motor vehicle dealer's facilities and sales potential in the new motor vehicle dealer's relevant market area, and within a reasonable time, but in any case no more than sixty (60) days, after receipt of an order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer or distributor, any new vehicle, parts, or accessories to new vehicles as are covered by the franchise, if the vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. The delivery to another dealer of a motor vehicle of the same model and ~~identically~~~~similarly~~ equipped as the vehicle ordered by a motor vehicle dealer who has not received delivery thereof, but who had placed his ~~or her~~ written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be prima facie evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle to a motor vehicle dealer within sixty (60) days, without cause. This section is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer, distributor, factory branch, or factory representative;[-]
 - (b) To refuse to disclose to any new motor vehicle dealer, handling the same line make, the manner and mode of distribution of that line make within the relevant market areas;[-]
 - (c) To prevent or attempt to prevent a dealer from receiving fair and reasonable compensation for the value of the franchised business. There shall not be a transfer or assignment of the dealer's franchise without the consent of the manufacturer or distributor, which consent shall not be unreasonably withheld;[-]
 - (d) ***To receive money, goods, services, or any other benefit from any vendor on account of a transaction between the dealer and the vendor with whom the dealer does business on the recommendation or requirement of the manufacturer or distributor, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to the dealer, excluding any entity engaged primarily in providing financing or insurance on motor vehicles;***~~To obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and the other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to, the dealer, excluding any entity engaged primarily in providing financing or insurance on motor vehicles.~~
 - (e) To increase prices of motor vehicles which the dealer had ordered for private retail customers prior to the dealer's receipt of the written official price increase notification, a sales contract signed by a private retail consumer shall constitute evidence of each order, provided that the vehicle is in fact delivered to the customer. In the event of manufacturer price reductions, the amount of a reduction received by a dealer shall be passed on to the private retail consumer by the dealer, if the retail price was negotiated on the basis of the previous higher price to the dealer. Price reductions shall apply to all vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series motor vehicles at the time of the introduction of new models or series shall not be considered a price increase or price decrease. Price changes caused by the following shall not be subject to the provisions of this section:
 1. The addition to a motor vehicle of required or optional equipment pursuant to state or federal law;
 2. Revaluation of the United States dollar, in the case of foreign-make vehicles or components; or
 3. Increased transportation charges due to an increase in the rate charged by common carrier or transporter;[-]

- (f) To offer any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line make to be sold to the state or any political subdivision thereof, without making the same offer, upon written request, to all other dealers in the same line make within the relevant market area;~~[-]~~
- (g) To release to any outside party, except under subpoena, any administrative, judicial or arbitration proceedings, or any business, financial, or personal information which may be, from time to time, provided by the dealer to the manufacturer, without the express written consent of the dealer;~~[-]~~
- (h) To deny any dealer the right of free association with any other dealer for any lawful purpose;~~[-]~~
- (i) To establish or maintain a relationship, on the part of a manufacturer, distributor, factory branch, or factory representative, where the voting rights exceed a simple majority;~~[-]~~
- (j) To own, operate, or control any motor vehicle dealership in the Commonwealth; however, this subsection shall not prohibit:
 1. The operation by any manufacturer of a dealership for a temporary period, not to exceed one (1) year, during the transition from one (1) owner to another;
 2. The ownership or control of a dealership by a manufacturer while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership; or
 3. The ownership, operation, or control of a dealership by a manufacturer if the licensor determines after a hearing at the request of any party, that there is not a dealer who is independent of the manufacturer available in the community or trade area to own and operate the franchise in a manner consistent with the public interest;~~[-]~~
- (k) To compete without good faith with a new motor vehicle dealer in the same line make, operating under an agreement or franchise from the aforementioned manufacturer, distributor, factory branch, or factory representative in the relevant market area. A manufacturer, distributor, factory branch, or factory representative shall not, however, be deemed to be competing when operating a dealership, either temporarily for a reasonable period, not to exceed one (1) year, or in a bona fide retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment, subject to loss in the dealership, and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions;~~[-]~~
- (l) *To offer to sell or to sell, directly or indirectly, at retail, any new motor vehicle to a consumer in the Commonwealth, except through a new motor vehicle dealer holding a franchise for the line make covering the new motor vehicle. The prohibition in this paragraph shall not apply to manufacturer or franchisor sales of new motor vehicles to the federal government, charitable organizations, fleet customers, or employees of the manufacturer or franchisor;*
- (m) *To fail to assign any retail vehicle reservation, request to purchase, or lease received by the manufacturer from a resident of the Commonwealth to the franchised dealer designated by the customer or, if no designation is made, to the franchised dealer in the closest proximity to the consumer, and for which the franchised dealer is otherwise in compliance with the franchise agreement and authorized to sell the make and model based on applicable standards and requirements that include but are not limited to any facility, technology, or training requirements necessary to sell or service the vehicle, so long as the standards and requirements are compliant with the applicable laws and regulations. Nothing in this paragraph shall require a manufacturer or distributor to allocate or supply additional or supplemental inventory to a franchised dealer located in the Commonwealth in order to satisfy a retail consumer's reservation or request;*
- (n)~~(h)~~ To unfairly discriminate among its new motor vehicle dealers with respect to warranty reimbursement or authority granted its new motor vehicle dealers to make warranty adjustment with retail customers;~~[-]~~
- (o)~~(m)~~ To fail to give consent to the sale, transfer, or exchange of the franchise to a qualified buyer capable of being licensed as a new motor vehicle dealer in this state; provided that consent may be withheld when in light of other circumstances, granting the consent would be unreasonable; ~~or~~~~[-]~~
- (p)~~(n)~~ To fail to be licensed as provided in this chapter, and to maintain a bond in an amount as determined by this chapter.

- (3) It shall be unlawful for a manufacturer, either directly or indirectly, or in combination with or through any subsidiary or affiliated entity, to discriminate in favor of one (1) dealer against another dealer holding a franchise for the same line make of motor vehicle by furnishing to only one (1) dealer any of the following:
- (a) Any vehicle, part, or other product that is not available to each dealer at the same price, including discounts, rebates, incentives, or other payments or allowances affecting the net price of the product;
 - (b) Any vehicle, part, or other product that is not made available to each dealer in quantities proportionate to the demand for the vehicle, part, or other product;
 - (c) Any vehicle, part, or other product that is not made available to each dealer on comparable delivery terms, including time of delivery after placement of an order;
 - (d) Any promotional or advertising payment or allowance that is not made available to each dealer on proportionally equal terms;
 - (e) Any opportunity to purchase or lease from the manufacturer the dealer's facility that is not made available to each dealer on terms proportionate to the respective values of its facilities;
 - (f) Any personnel training that is not made available to each dealer on proportionally equal terms;
 - (g) Any inventory or other financing that is not made available to each dealer on proportionally equal terms, except that a manufacturer, subsidiary, or affiliated entity shall not be obligated to make available financing to a dealer who does not meet reasonable credit standards uniformly applied by the manufacturer, subsidiary, or affiliated entity;
 - (h) Any opportunity to perform work for which the dealer is entitled to be compensated under this chapter that is not made available to each dealer under uniformly applied standards;
 - (i) Any opportunity to sell products or services distributed by the manufacturer for resale in connection with the line make of the motor vehicle covered by the franchise that is not made available to each dealer on proportionally equal terms;
 - (j) Any opportunity to establish an additional sales, service, or parts outlet that is not made available to each dealer in whose relevant market area the sales, service, or parts outlet will be located;
 - (k) Any information concerning the manufacturer's products, prices or other terms of sale, or promotional programs that is not contemporaneously furnished to the dealer;
 - (l) Any improvement to, or payment to the dealer for an improvement to, the dealer's facilities that is not made available to each dealer on proportionally equal terms;
 - (m) Any opportunity to sell or assign retail installment contracts or consumer leases to the manufacturer or the manufacturer's sales finance company subsidiary that is not made available to each dealer on proportionally equal terms, except that a manufacturer or sales finance company shall not be obligated to purchase any retail installment contract or consumer lease that does not meet reasonable credit terms uniformly applied by the manufacturer or sales finance company subsidiary;
 - (n) Any product assistance, service, or facility in connection with the franchise that is not made available to each dealer on proportionally equal terms; or
 - (o) Any payment for any service or facility in connection with the franchise that is not made available to each dealer on proportionally equal terms.
- (4) It shall not be a defense to an alleged violation of subsection (3) of this section, that an item or opportunity was offered to a dealer if the offer was conditioned upon the dealer meeting one (1) or more requirements that are not reasonable and necessary to fulfill the dealer's obligations under the franchise. The manufacturer shall have the burden of proving that any requirement upon which an offer was conditioned was reasonable and necessary to fulfill the dealer's obligations under the franchise when the offer was made. A requirement shall not be found to be reasonable and necessary to fulfill the dealer's obligations under the franchise if the manufacturer cannot prove that it was within the control of each dealer to meet the requirement imposed on the dealer as a condition of the offer.
- (5) A dealer who alleges a good faith belief that the dealer has been, or is being, discriminated against in violation of subsection (3) of this section, may demand in writing that the manufacturer furnish the dealer with pertinent information reasonably necessary for the dealer to determine if discrimination exists. If the manufacturer fails to furnish the dealer with the information demanded within thirty (30) days of the manufacturer's receipt of the

dealer's written demand, the manufacturer shall have, in any subsequent legal proceeding, the burden of proving that the alleged violation has not occurred.

- (6) Any dealer who is discriminated against by a manufacturer in violation of subsection (3) of this section shall recover three (3) times an amount equal to the value of what the dealer would have received if the manufacturer had complied with subsection (3) of this section upon furnishing any item or opportunity to another dealer.
- (7) A change in ownership of a manufacturer or distributor that contemplates a continuation of that line make in the state shall not directly or indirectly, through actions of any parent of the manufacturer or distributor, subsidiary of the manufacturer or distributor, or common entity cause a termination, cancellation, or nonrenewal of a dealer agreement by a present or previous manufacturer or distributor of an existing agreement unless the manufacturer or distributor offers the new vehicle dealer an agreement substantially similar to that offered to other dealers of the same line make.

Signed by Governor March 16, 2023.

CHAPTER 8

(HB 392)

AN ACT relating to motor vehicles.

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

➔Section 1. KRS 186.014 is amended to read as follows:

In any county, the county clerk ~~and the circuit clerk~~ may maintain branch offices ~~in each legislative district~~ for the purpose of ~~processing~~~~issuing~~ motor vehicle *titling and* registration *transactions* ~~plates and drivers' licenses. These offices may be located in volunteer fire department stations or in other buildings used for a public purpose.~~

➔Section 2. KRS 186.531 is amended to read as follows:

(1) As used in this section:

(a) ~~"AOC Fund" means the circuit court clerk salary account created in KRS 27A.052;~~

~~(b)~~ "GF" means the general fund;

~~(b)~~~~(c)~~ "IP" means instruction permit;

~~(c)~~~~(d)~~ "License Fund" or "LF" means the KYTC photo license account created in KRS 174.056;

~~(d)~~~~(e)~~ "MC" means motorcycle;

~~(e)~~~~(f)~~ "MC Fund" or "MCF" means the motorcycle safety education program fund established in KRS 176.5065;

~~(f)~~~~(g)~~ "OL" means operator's license; and

~~(g)~~~~(h)~~ "PIDC" means personal identification card.

(2) The fees imposed for voluntary travel ID operator's licenses, instruction permits, and personal identification cards shall be as follows. The fees received shall be distributed as shown in the table. The fees shown, unless otherwise noted, are for an eight (8) year period:

Card Type	Fee	LF	GF	MCF
OL (initial/renewal)	\$48	\$48	\$0	\$0
OL (Under 21) (Up to 4 years)	\$18	\$18	\$0	\$0
Any OL, MC, or combination (duplicate/corrected)	\$15	\$13.25	\$1.75	\$0
Motor vehicle IP (3 years)	\$18	\$16	\$2	\$0

Motorcycle IP (1 year)	\$18	\$13	\$1	\$4
Motorcycle OL (initial/renewal)	\$48	\$38	\$0	\$10
Combination vehicle/MC OL (initial/renewal)	\$58	\$48	\$0	\$10
PIDC (initial/renewal)	\$28	\$25	\$3	\$0
PIDC (duplicate/corrected)	\$15	\$13.50	\$1.50	\$0

(3) Except as provided in subsection (11) of this section, the fees imposed for standard operator's licenses, instruction permits, and personal identification cards shall be as follows *and*:

(a) ~~If the identity document is issued through a circuit clerk's office, the fees received shall be distributed as shown in the table. The fees shown, unless otherwise noted, are for an eight (8) year period:~~

Card Type	Fee	Road Fund	License Fund	AOC Fund	GF	MC Fund
OL (initial/renewal)	\$43	\$28	\$7	\$8	\$0	\$0
OL (Under 21) (Up to 4 years)	\$15	\$7.50	\$4	\$3.50	\$0	\$0
Any OL, MC OL or combination (duplicate /corrected)	\$15	\$5.25	\$4	\$4	\$1.75	\$0
Motor vehicle IP (3 years)	\$15	\$5	\$4	\$4	\$2	\$0
Motorcycle IP (1 year)	\$15	\$5	\$4	\$1	\$1	\$4
Motorcycle OL (initial/renewal)	\$43	\$17.50	\$8	\$7.50	\$0	\$10
Combination vehicle/MC OL (initial/renewal)	\$53	\$25	\$7	\$11	\$0	\$10
PIDC (initial/renewal)	\$23	\$8	\$8	\$4	\$3	\$0
PIDC (duplicate/corrected)	\$15	\$6	\$4	\$3.50	\$1.50	\$0
PIDC (no fixed address) KRS 186.4122(5) and 186.4123(5)	\$10	\$0	\$5	\$5	\$0	\$0

(b) ~~If the identity document is issued through a Transportation Cabinet office, the fees received shall be distributed as shown in the table. The fees shown], unless otherwise noted, are for an eight (8) year period:~~

Card Type	Fee	LF	GF	MCF
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OL(initial/renewal)	\$43	\$43	\$0	\$0
OL (Under 21) (Up to 4 years)	\$15	\$15	\$0	\$0
Any OL, MC, or combination (duplicate/corrected)	\$15	\$13.25	\$1.75	\$0
Motor vehicle IP (3 years)	\$15	\$13	\$2	\$0
Motorcycle IP (1 year)	\$15	\$10	\$1	\$4
Motorcycle OL (initial/renewal)	\$43	\$33	\$0	\$10
Combination vehicle/MC OL (initial/renewal)	\$53	\$43	\$0	\$10
PIDC (initial/renewal)	\$23	\$20	\$3	\$0
PIDC (duplicate/corrected)	\$15	\$13.50	\$1.50	\$0
PIDC (no fixed address) under KRS 186.4122(5)/186.4123(5)	\$10	\$10	\$0	\$0

- (4) The fee for a second or subsequent duplicate personal identification card for a person who does not have a fixed, permanent address, as allowed under KRS 186.4122(5) and 186.4123(5), shall be the same as for a duplicate regular personal identification card.
- (5) The fee for a four (4) year original or renewal license issued pursuant to KRS 186.4101 shall be fifty percent (50%) of the amount shown in subsections (2) and (3) of this section. The distribution of fees shown in subsections (2) and (3) of this section shall also be reduced by fifty percent (50%) for licenses that are issued for four (4) years.
- (6) Any fee for any identity document applied for using alternative technology under KRS 186.410 and 186.4122 shall be distributed in the same manner as a document applied for in person with the cabinet.
- (7) (a) An applicant for an original or renewal operator's license, permit, commercial driver's license, motorcycle operator's license, or personal identification card shall be requested by the cabinet to make a donation to promote an organ donor program.
- (b) The donation under this subsection shall be added to the regular fee for an original or renewal motor vehicle operator's license, permit, commercial driver's license, motorcycle operator's license, or personal identification card. One (1) donation may be made per issuance or renewal of a license or any combination thereof.
- (c) The fee shall be paid to the cabinet and shall be forwarded by the cabinet on a monthly basis to the Kentucky Circuit Court Clerks' Trust for Life, and such moneys are hereby appropriated to be used exclusively for the purpose of promoting an organ donor program. A donation under this subsection shall be voluntary and may be refused by the applicant at the time of issuance or renewal.
- (8) In addition to the fees outlined in this section, the following individuals, upon application for an initial or renewal operator's license, instruction permit, or personal identification card, shall pay an additional application fee of thirty dollars (\$30), which shall be deposited in the photo license account:
- (a) An applicant who is not a United States citizen or permanent resident and who applies under KRS 186.4121 or 186.4123; or
- (b) An applicant who is applying for a instruction permit, operator's license, or personal identification card without a photo under KRS 186.4102(9).
- (9) (a) Except for individuals exempted under paragraph (c) of this subsection, an applicant for relicensing after revocation or suspension shall pay a reinstatement fee of forty dollars (\$40).
- (b) The reinstatement fee under this subsection shall be distributed by the State Treasurer as follows:
1. Thirty-five dollars (\$35) shall be deposited into the photo license account; and
 2. Five dollars (\$5) shall be deposited into a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers.

(c) This subsection shall not apply to:

1. Any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individual are reinstated; or
2. A student who has had his or her license revoked pursuant to KRS 159.051.

(10) As payment for any fee identified in this section, the cabinet:

- (a) Shall accept cash and personal checks; and
- (b) May accept other methods of payment in accordance with KRS 45.345.

(11) There shall be no fee assessed for the initial, renewal, or duplicate standard personal identification card to an individual, if the individual:

- (a) Does not possess a valid operator's license or a commercial driver's license; and
- (b) Is at least eighteen (18) years of age on or before the next regular election.

➔Section 3. KRS 186.510 is amended to read as follows:

The licensee shall have his or her license in his or her immediate possession at all times when driving a motor vehicle and shall display it upon demand to ~~the circuit clerk or examiner,~~ a peace officer, a member of the Department of Kentucky State Police, or a field deputy or inspector of the Department of Vehicle Regulation or Transportation Cabinet or, pursuant to KRS 67A.075 or 83A.088, a safety officer who is in the process of securing information to complete an accident report. It shall be a defense to any charge under this section if the person so charged produces in court an operator's license, issued to him or her before his or her arrest and valid at the time of his or her arrest.

➔Section 4. KRS 27A.052 is amended to read as follows:

- (1) The Circuit Court clerk salary account is created as a trust and agency account in the State Treasury to be administered by the Administrative Office of the Courts. The account shall consist of ~~the portion of fees directed to the account under KRS 186.531 and any other~~ proceeds from grants, contributions, appropriations, or other moneys made available for the purposes of the account.
- (2) Notwithstanding KRS 45.229, any moneys remaining in the account not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.
- (3) Any interest earnings of the account shall become a part of the account and shall not lapse.
- (4) Moneys in the account shall be used for the purposes of hiring additional deputy circuit clerks and providing salary adjustments to deputy circuit clerks and are hereby appropriated for these purposes.

➔Section 5. The following KRS section is repealed:

186.490 Duties of the circuit clerk -- Issuing offices to close by June 30, 2022.

Signed by Governor March 16, 2023.

CHAPTER 9

(HJR 39)

A JOINT RESOLUTION directing executive branch agencies to undertake efforts to address the benefits cliff in Kentucky.

WHEREAS, individuals and families receiving public assistance benefits can lose some or all benefits as the result of a marginal increase in income; and

WHEREAS, the loss of public assistance benefits resulting from an increase in income often means that an individual's or a family's overall access to financial resources is reduced despite the fact that they are earning additional income; and

WHEREAS, this sudden and often dramatic loss of public assistance benefits resulting in an overall reduction in access to financial resources is known as the benefits cliff or cliff effect; and

WHEREAS, in many states the loss of child care assistance represents one of the, if not the, largest benefits cliffs; and

WHEREAS, for a low-income working family with two children in Kentucky, a marginal increase in income can result in the loss of Child Care Assistance Program (CCAP) support causing the family to experience a benefit cliff of approximately \$1,500 per month or \$18,000 per year; and

WHEREAS, the Cabinet for Health and Family Services has utilized federal Coronavirus Response and Relief Supplemental Appropriation (CRRSA) Act and American Rescue Plan Act (ARPA) funds that are set to expire in the summer of 2024 to finance significant changes to CCAP that have the potential to substantially reduce the child care benefit cliff in Kentucky; and

WHEREAS, the loss of CCAP assistance could serve as a significant barrier to continued participation in the workforce; and

WHEREAS, the General Assembly has demonstrated a commitment to improving the efficacy of public assistance programs, mitigating or eliminating the benefits cliff, and promoting gainful employment and self-sufficiency through the establishment of the 2019 Interim Public Assistance Reform Task Force and the 2022 Interim Benefits Cliff Task Force as well as the passage of House Bill 7 during the 2022 Regular Session; and

WHEREAS, the 2022 Interim Benefits Cliff Task Force determined that the benefits cliff is a barrier to gainful employment and self-sufficiency that limits upward economic mobility and traps individuals and families in cycles of poverty and government dependence and thereby increases the amount of time an individual or family remains on public assistance; and

WHEREAS, the 2022 Interim Benefits Cliff Task Force further determined that in addition to being a barrier to gainful employment and self-sufficiency, the benefits cliff creates a significant staffing challenge for employers particularly during periods of labor market tightness; and

WHEREAS, the 2022 Interim Benefits Cliff Task Force found that tiering public assistance benefits, or gradually phasing down benefits as a recipient's income increases, as opposed to fully terminating benefits following a marginal increase in income, offers a meaningful opportunity to mitigate the benefits cliff; and

WHEREAS, the 2022 Interim Benefits Cliff Task Force also found that access to a user-friendly benefits cliff calculator tool that allows users to weigh the pros and cons of upward mobility and benefit eligibility can significantly improve public assistance beneficiaries' ability to make informed decisions about accepting better-paying jobs or additional hours of employment; and

WHEREAS, according to the Kentucky Chamber of Commerce, less than 80% of eligible low-to-moderate-income Kentuckians claim the federal Earned Income Tax Credit on their individual federal income tax filings each year, resulting in more than \$230,000,000 in unrealized tax credits annually; and

WHEREAS, the ability of the Commonwealth and other states to effectively address the benefits cliff is in some cases hampered by numerous, rigid federal regulations and guidelines governing the various public assistance program intended to provide short-term assistance to needy individuals; and

WHEREAS, failing to mitigate the negative effects of the benefits cliff represents a threat to the Commonwealth's fiscal stability and future economic prosperity;

NOW, THEREFORE,

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

➔Section 1. The Cabinet for Health and Family Services is hereby directed to conduct a thorough review of all public assistance programs administered by the cabinet to identify all flexibilities permitted under federal law, including but not limited to the state's ability to tier benefits or to gradually phase out benefits as a benefit recipient's income increases as opposed to fully terminating benefits following a marginal increase in income, which may afford the Commonwealth the opportunity to address the benefits cliff in Kentucky without the need for federal action. The Cabinet for Health and Family Services shall submit a report containing the results of this review to the Interim Joint Committee on Health, Welfare, and Family Services no later than November 1, 2023.

➔Section 2. The Cabinet for Health and Family Services is hereby directed to study the annual cost to the state of maintaining changes to the Child Care Assistance Program that were implemented between January 1, 2020, and January 1, 2023, and funded, either wholly or in part, by federal CRRSA, ARPA, or Coronavirus Aid, Relief, and

Economic Security Act (CARES) funds, if and when these funds are exhausted. The cabinet is further directed to study potential changes to CCAP that would be cost-neutral to the state and serve to minimize the likelihood that an individual receiving child care assistance through the program would experience a benefits cliff, or a sudden and total loss of eligibility and benefits following a marginal increase in income above the program's current income eligibility threshold. The Cabinet for Health and Family Services shall submit its findings to the Interim Joint Committees on Health, Welfare, and Family Services and Appropriations and Revenue no later than November 1, 2023.

➔Section 3. The Cabinet for Health and Family Services is hereby directed to integrate a user-friendly benefits cliff calculator tool that allows users to understand how changes to gross income can effect eligibility for public assistance programs and long-term financial self-sufficiency and sustainability into the cabinet's public assistance outreach and support efforts, to ensure that all Department for Community Based Services employees who are directly responsible for assisting individuals in applying or reapplying for public assistance benefits have access to the benefits cliff calculator tool and are properly trained on the use of the benefits cliff calculator tool and its functions, to make the benefits cliff calculator tool easily accessible on the cabinet's website, and to submit a report on efforts to fulfill the requirements of this section to the Interim Joint Committee on Health, Welfare, and Family Services no later than November 1, 2023.

➔Section 4. The Cabinet for Health and Family Services is hereby directed to implement an outreach and education program to increase awareness and utilization of the federal Earned Income Tax Credit and free income tax filing support services among eligible public assistance beneficiaries. In developing and implementing this program, the Cabinet for Health and Family Services may partner with the Kentucky Department of Revenue and nonprofit organizations that offer or coordinate free income tax filing services. The Cabinet for Health and Family Services shall submit a report on efforts to fulfill the requirements of this section to the Interim Joint Committee on Health, Welfare, and Family Services no later than November 1, 2023.

➔Section 5. In the event the Legislative Research Commission dissolves the Interim Joint Committee on Health, Welfare, and Family Services and establishes another interim joint committee with jurisdiction over families and children, the reports required in Sections 1 to 4 of this Resolution shall be submitted to that committee.

Signed by Governor March 16, 2023.

CHAPTER 10

(HB 130)

AN ACT relating to soil and water conservation.

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

➔Section 1. KRS 262.330 is amended to read as follows:

- (1) The board may make available or lease, on such terms as it prescribes, to landowners and occupiers within the district, agricultural and engineering machinery and equipment, ***including heavy or specialized equipment acquired pursuant to Section 2 of this Act***, fertilizer, seeds, seedlings, and such other material or equipment as will assist the landowners and occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion. ***Any heavy or specialized equipment acquired pursuant to Section 2 of this Act that the board makes available, rents, or leases may be used on the lessee's or renter's land or on the lands of others for the purposes of conserving soil resources, the prevention and control of soil erosion, and the conservation and protection of water resources related to those purposes.***
- (2) As a condition to the extending of any benefits under this chapter to, or the performance of work upon, any lands not owned or controlled by this state or any of its agencies, the board may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and require landowners and occupiers to enter into and perform such agreements or covenants as to the permanent use of their lands as will tend to prevent or control erosion.

➔Section 2. KRS 262.610 is amended to read as follows:

- (1) (a) ***Heavy or specialized equipment purchased or made available in accordance with Section 1 of this Act and KRS 262.610 to 262.660 shall be used for the purposes of conserving soil resources, the prevention and control of soil erosion, and the conservation and protection of water resources related***

to those purposes. The heavy or specialized equipment described in this paragraph may be used on the renter's or lessee's land or on the lands of others, pursuant to the usage proportions established in the administrative regulations promulgated under subsection (2)(d) of Section 5 of this Act.

- (b) The Soil and Water Conservation Commission as referred to in KRS Chapter 146, subject to the supervision of the commissioner of the Department for Natural Resources, to the restrictions provided in KRS 262.330 and KRS 262.610 to 262.660, and to the requirements of KRS Chapters 42 and 45A, is hereby authorized to acquire and to make available, or to assist in acquiring or making available to **persons and** soil and water conservation districts, heavy or specialized equipment or infrastructure which ~~they~~~~[an individual district]~~ cannot~~[itself]~~ economically obtain.
 - (c) *A district may submit a request to the commission for the acquisition of heavy or specialized equipment jointly with a person residing within the district to whom the district has agreed to lease the equipment in the event that it is acquired or made available. The district and the person shall submit all information with their joint request for heavy or specialized equipment as may be required by the commission in the administrative regulations promulgated under Section 5 of this Act.*
 - (d) *The commission shall not approve an application made jointly by a person and any district to acquire infrastructure or to have infrastructure made available to them.*
- (2) When the commission acquires or makes available **heavy or specialized**~~[to any district the]~~ equipment **to any district, or district applying jointly with a person,** or infrastructure~~[above referred]~~ **to any district,** it shall require said district to fully amortize, in the form of rentals or payments, to the Division of Conservation, as referred to in KRS Chapter 146, any amount so expended by the commission for such assistance. The amount and method of amortization for each piece of heavy **or specialized** equipment or infrastructure shall be determined by the commission, subject to approval of the commissioner of the Department for Natural Resources. The amount and method of amortization for each piece of heavy or specialized equipment shall be determined on the basis of the lease or a rental fee to be charged by the district to the lessee or other user of equipment sufficient to:
- (a) Fully amortize to the division the capital outlay for the machinery itself over the period of its reasonably anticipated full usefulness;
 - (b) Cover the cost of operation, maintenance, and repairs;
 - (c) Pay the usual cost of providing an operator; and
 - (d) Compensate the district for the usual costs of transportation from one (1) job to another.
- (3) In giving effect to all of the foregoing, the commission shall estimate the amount of time such **heavy or specialized** equipment would ordinarily be idle.

➔Section 3. KRS 262.620 is amended to read as follows:

The Division of Conservation shall retain title to each piece of heavy or specialized equipment or any infrastructure purchased and made available to any soil and water conservation district **pursuant to Section 2 of this Act** until such time as the soil and water conservation districts fully amortize the commission's investment in the equipment or the infrastructure. If the soil and water conservation district purchases infrastructure with use of funds made available by the Division of Conservation for that purpose, then the Division of Conservation shall be listed on the deed to the property jointly with the district. After the commission's investment in the **heavy or specialized** equipment or infrastructure has been fully amortized, it is authorized and empowered to transfer the title thereto to the district. If the district has purchased infrastructure with funds made available by the Division of Conservation, the district shall consult with the division prior to the dispossession of the property.

➔Section 4. KRS 262.630 is amended to read as follows:

- (1) Each soil and water conservation district which receives, **leases, rents,** or uses the **heavy or specialized** equipment referred to in KRS 262.610 shall maintain its public records to show for each piece of equipment:
 - (a) The hours same has worked on each job in each district;
 - (b) The amounts collected from each job in each district;
 - (c) The expense of repairing, moving, manning and other usual costs of operation; and
 - (d) The amount paid by each district for the purpose of amortizing the commission's investment in the equipment.

- (2) Each soil and water conservation district which leases or otherwise obtains a right of use of the infrastructure with the support of the Division of Conservation pursuant to KRS 262.610 shall maintain in public records a copy of the lease or other contract which provides the district a right of use of the infrastructure; and
 - (a) In the case of a purchase, the amount paid by each district for the purpose of amortizing the commission's investment in the infrastructure; or
 - (b) In the case of lease without right of purchase or some other contractual arrangement or agreement, the payments made to the Division of Conservation for the right of use of the infrastructure.
- (3) Each of the soil and water conservation districts shall send a duplicate copy of the records to the commission, who shall retain same in its files for public inspection.
- (4) In addition thereto, the commission shall at all times maintain an account showing each piece of *heavy or specialized* equipment, the title to which is vested in it, and any infrastructure, the title of which may be vested solely in the commission or jointly with the district, and the amount paid thereon by any soil and water conservation district, and the amount remaining to be amortized.

➔Section 5. KRS 262.660 is amended to read as follows:

- (1) The commission, with the approval of the commissioner of the Department for Natural Resources, is hereby authorized to promulgate such other rules and regulations or methods of accounting as may be necessary or expedient to give effect to the purposes expressed in KRS 262.610 to 262.650.
- (2) ***On or before January 1, 2024, the commission, with the approval of the commissioner of the Department for Natural Resources, shall promulgate administrative regulations pursuant to KRS Chapter 13A that shall at a minimum set forth:***
 - (a) ***The form and manner in which a person and a district may jointly request the acquisition of heavy or specialized equipment pursuant to subsection (1)(c) of Section 2 of this Act, including but not limited to any financial or other disclosures the commission may require;***
 - (b) ***The terms, conditions, and repayment of loans for heavy or specialized equipment that the commission makes available to districts for rent or lease to persons within those districts;***
 - (c) ***The terms and conditions for rental or lease agreements between districts and persons for the use of acquired heavy or specialized equipment, including but not limited to permissible uses of the equipment, care and maintenance of the equipment, liability assumptions for property damage or bodily injury caused by the equipment, insurance requirements, availability of the equipment for use by others in the district, and the keeping of public records regarding the use of the equipment. Notwithstanding any provision of this chapter or KRS Chapter 42 or 45A to the contrary, lease agreements shall allow lessees to use acquired heavy or specialized equipment outside of their own lands, and with prior approval of the board for the leasing district, on lands outside of their districts; and***
 - (d) ***The proportion of time that lessees or renters shall use the acquired heavy or specialized equipment on their own lands and the proportion of time that the heavy or specialized equipment shall be used on the lands of others.***

➔Section 6. KRS 146.090 is amended to read as follows:

- (1) The secretary of the Energy and Environment Cabinet, with the approval of the Soil and Water Conservation Commission shall divide the state into nine (9) soil and water conservation areas which shall contain as nearly as practicable, an equal number of soil and water conservation districts;
- (2) The Soil and Water Conservation Commission shall consist of nine (9) members, not more than five (5) of whom shall be of the same political party, to be appointed by the secretary of the Energy and Environment Cabinet with the approval of the Governor;
- (3) One (1) member shall be appointed from each of the areas from a list of two (2) names submitted from each area by the ***Kentucky Association of Conservation Districts***~~[supervisors of the soil and water conservation districts that have their principal offices therein]~~. All members ***of the commission*** shall be supervisors of soil and water conservation districts;
- (4) The term of office of each member shall be four (4) years; provided that, whenever a member of the commission ceases to hold the office of district supervisor by virtue of which he ***or she*** is serving on the commission, his ***or her*** term of office as a member of the commission shall be terminated. In the case of any

vacancy other than the one (1) caused by the expiration of a term, the secretary of the Energy and Environment Cabinet, with the approval of the Governor, shall appoint the successor from a list of two (2) names submitted by the *Kentucky Association of Conservation Districts from the* ~~supervisors of the soil and water conservation~~ area which was represented by the former member. The successor shall also be a supervisor of a soil and water conservation district;

- (5) The members of the commission shall designate a chairman from among their members and may from time to time change such designation. The commission shall keep a record of its official actions. A majority of the commission shall constitute a quorum. The commission may call upon the Attorney General for legal services as it may require. It may delegate to its chairman, any of its members, the director of the division, or any officer, employee, or agent, powers and duties as it deems proper. Members of the commission shall receive no compensation for their services, but shall be entitled to expenses, including traveling expenses, necessarily incurred in discharging their duties;
- (6) The following persons are advisory members of the commission by virtue of their offices: the secretary of the Energy and Environment Cabinet, the Commissioner of Agriculture, the director of the agricultural experiment station, the director of vocational education, and the state conservationist of the United States Department of Agriculture.

➔Section 7. KRS 262.210 is amended to read as follows:

Nominating petitions shall be filed with the clerk of the county in which the district lies to nominate candidates for supervisors of the district. Such petitions shall be filed by at least the last date prescribed by the election law generally for filing certificates of nomination prior to a general election. Such petitions shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed. Each nominating petition shall be subscribed by twenty-five (25) or more qualified voters who are residents of the territory to be encompassed by the district. Resident qualified voters may join in nominating by petition more than one (1) candidate for supervisor. The nominating petition shall state the residence and post office address of each candidate, that he *or she* is legally qualified to hold the office, ~~and~~ that the subscribers desire, and are legally qualified, to vote for the candidate, **and for candidates who have not taken office prior to the effective date of this Act, that the candidate is at least eighteen (18) years of age.** The county clerk shall certify the nomination and election of supervisors to the commission.

➔Section 8. KRS 262.240 is amended to read as follows:

- (1) A supervisor's term begins on January 1 following his *or her* election. ~~[The two (2) supervisors elected in the general election of 1974 shall be elected for a term of two (2) years. In 1976 a general election shall be conducted for seven (7) supervisors. The four (4) supervisors elected with the highest number of votes in the general election of 1976 shall serve for four (4) years; the other three (3) supervisors elected in 1976 shall serve for two (2) years. In the event only seven (7) nominating petitions for supervisors are filed, the commission shall declare the nominees elected without an election, and shall name four (4) of the nominees to serve terms of four (4) years, and three (3) to serve terms of two (2) years. Thereafter]~~Supervisors shall be elected for four (4) years as their terms expire. Nominating petitions for supervisors shall be filed with the county clerk not later than the last date prescribed by the election law generally for filing certificates and petitions of nomination. No such nominating petition shall be accepted by the clerk unless it is signed by twenty-five (25) or more qualified resident voters of the district. Qualified resident voters may sign more than one (1) nominating petition to nominate more than one (1) candidate for supervisor. In the event nominating petitions for only the number of supervisors to be elected are filed, the commission shall declare the nominees elected without holding an election. The county clerk shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.
- (2) A supervisor shall hold office until his *or her* successor has been elected and has qualified. Vacancies shall be filled for the unexpired term by appointment by the commission.
- (3) A supervisor may be reimbursed for expenses necessarily incurred in the discharge of his *or her* duties and may be paid a per diem for attending meetings or otherwise discharging the obligations of his *or her* office.
- (4) A supervisor shall be **at least eighteen (18) years of age**, a resident of the county or district in which he *or she* serves as a supervisor, and upon moving from the county or district, the supervisor shall be ineligible to serve as a supervisor and his *or her* office shall be vacant.

- (5) A supervisor who has been declared elected without an election pursuant to subsection (1) of this section may be removed from office by the commission in the same manner as provided by KRS 65.007 for removal of an appointed member of the governing body of a special district.

➔Section 9. Whereas the Kentucky Association of Conservation Districts represents the 121 soil conservation districts throughout our great Commonwealth, and its mission is to conserve and develop all renewable natural resources within each district, it is imperative that the continuity of the conservation district's board of supervisors remain as established upon the effective date of this Act. Therefore, it is the intent of the General Assembly that each supervisor of the district shall serve his or her term as elected by the residents of the district which the supervisor represents and shall not be replaced until his or her successor has been elected and has qualified. Furthermore, it is the intent of the General Assembly that, upon the effective date of this Act, candidates for supervisor of a conservation district shall be at least 18 years of age.

Signed by Governor March 17, 2023.

CHAPTER 11

(HB 232)

AN ACT relating to insurance adjusters.

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

➔Section 1. KRS 304.9-430 is amended to read as follows:

- (1) Except as provided in this section and KRS 304.52-060, no person shall in this state act as or hold himself, herself, or itself out to be an independent, staff, or public adjuster unless then licensed by the department as an independent, staff, or public adjuster.
- (2) (a) An individual applying for a resident independent, staff, or public adjuster license shall make *an* application to the commissioner on the appropriate uniform individual application and in a format prescribed by the commissioner.
- (b) *An*~~The~~ applicant *under paragraph (a) of this subsection* shall declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief.
- (c) Before approving *an*~~the~~ application *submitted under paragraph (a) of this subsection*, the commissioner shall find that the individual to be licensed:
- 1.~~(a)~~ Is at least eighteen (18) years of age;
 - 2.~~(b)~~ Is eligible to designate Kentucky as *the individual's*~~his or her~~ home state;
 - 3.~~(c)~~ Is trustworthy, reliable, and of good reputation, evidence of which shall be determined through an investigation by the commissioner;
 - 4.~~(d)~~ Has not committed any act that is a ground for probation,~~or~~ suspension, revocation, or refusal of a license as set forth in KRS 304.9-440;
 - 5.~~(e)~~ Has successfully passed the examination for the adjuster license and the applicable line of authority for which the individual has applied;
 - 6.~~(f)~~ Has paid the fees established by the commissioner pursuant to KRS 304.4-010; and
 - 7.~~(g)~~ Is financially responsible to exercise the license.
- (3) (a) To demonstrate financial responsibility, a person applying for a public adjuster license shall obtain a bond or irrevocable letter of credit prior to issuance of a license and shall maintain the bond or letter of credit for the duration of the license with the following limits:
1. A surety bond executed and issued by an insurer authorized to issue surety bonds in Kentucky, which bond shall:
 - a. Be in the minimum amount of *fifty*~~twenty~~ thousand dollars *(\$50,000)*~~(\$20,000)~~;

- b. Be in favor of the state of Kentucky;~~and shall~~
 - c. Specifically authorize recovery of any person in Kentucky who sustained damages as the result of *the public adjuster's* erroneous acts, failure to act, conviction of fraud, or conviction for unfair trade practices in his or her capacity as a public adjuster; and
 - d.~~[-e-]~~ Not be terminated unless written notice is given to the licensee at least thirty (30) days prior to the termination; or
2. An irrevocable letter of credit issued by a qualified financial institution, which letter of credit shall:
- a. Be in the minimum amount of ~~fifty~~~~twenty~~ thousand dollars **(\$50,000)**~~(\$20,000)~~;
 - b. Be subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, conviction of fraud, or conviction for unfair practices in his or her capacity as a public adjuster; and
 - c. Not be terminated unless written notice is given to the licensee at least thirty (30) days prior to the termination.
- (b) The commissioner may ask for evidence of financial responsibility at any time *the commissioner*~~he or she~~ deems relevant.
- (c) ~~The public adjuster license shall automatically terminate~~ If the evidence of financial responsibility terminates or becomes impaired, ***the public adjuster license shall:***
- 1. ***Automatically terminate;*** and~~shall~~
 - 2. Be promptly surrendered to the commissioner without demand.
- (4) (a) A business entity applying for a resident independent or public adjuster license shall make ***an*** application to the commissioner on the appropriate uniform business entity application and in a format prescribed by the commissioner.
- (b) ~~An~~~~The~~ applicant ***under paragraph (a) of this subsection*** shall declare under penalty of suspension, revocation, or refusal of the license that the statements made in the application are true, correct, and complete to the best of the business entity's knowledge and belief.
- (c) Before approving ~~an~~~~the~~ application ***submitted under paragraph (a) of this subsection***, the commissioner shall find that the business entity:
- 1.~~(a)~~ Is eligible to designate Kentucky as its home state;
 - 2.~~(b)~~ Has designated a licensed independent or public adjuster responsible for the business entity's compliance with the insurance laws and regulations of Kentucky;
 - 3.~~(c)~~ Has not committed an act that is a ground for probation,~~or~~ suspension, revocation, or refusal of an independent or public adjuster's license as set forth in KRS 304.9-440; and
 - 4.~~(d)~~ Has paid the fees established by the commissioner pursuant to KRS 304.4-010.
- (5) ***For applications made under this section***, the commissioner may:
- (a) Require additional information or submissions from applicants; and~~may~~
 - (b) Obtain any documents or information reasonably necessary to verify the information contained in an application.
- (6) Unless denied licensure pursuant to KRS 304.9-440, a person or business entity who has met the requirements of subsections (2) to (5) of this section shall be issued an independent, staff, or public adjuster license.
- (7) An independent or staff adjuster may qualify for a license in one (1) or more of the following lines of authority:
- (a) Property and casualty;
 - (b) Workers' compensation; or
 - (c) Crop.

- (8) Notwithstanding any other provision of this subtitle, an individual who is employed by an insurer to investigate suspected fraudulent insurance claims, but who does not adjust losses or determine claims payments, shall not be required to be licensed as a staff adjuster.
- (9) A public adjuster may qualify for a license in one (1) or more of the following lines of authority:
- (a) Property and casualty; or
 - (b) Crop.
- (10) Notwithstanding any other provision of this subtitle, a license as an independent adjuster shall not be required of the following:
- (a) An individual who is sent into Kentucky on behalf of an insurer for the sole purpose of investigating or making adjustment of a particular loss resulting from a catastrophe, or for the adjustment of a series of losses resulting from a catastrophe common to all losses;
 - (b) An attorney licensed to practice law in Kentucky, when acting in his or her professional capacity as an attorney;
 - (c) A person employed solely to obtain facts surrounding a claim or to furnish technical assistance to a licensed independent adjuster;
 - (d) An individual who is employed to investigate suspected fraudulent insurance claims, but who does not adjust losses or determine claims payments;
 - (e) A person who:
 1. Solely performs executive, administrative, managerial, or clerical duties, or any combination thereof; ~~and~~ ~~who~~
 2. Does not investigate, negotiate, or settle claims with policyholders, claimants, or their legal representatives;
 - (f) A licensed health care provider or its employee who provides managed care services ~~if~~ ~~as long as~~ the services do not include the determination of compensability;
 - (g) A health maintenance organization or any of its employees or an employee of any organization providing managed care services ~~if~~ ~~as long as~~ the services do not include the determination of compensability;
 - (h) A person who settles only reinsurance or subrogation claims;
 - (i) An officer, director, manager, or employee of an authorized insurer, surplus lines insurer, or risk retention group, or an attorney-in-fact of a reciprocal insurer;
 - (j) A United States manager of the United States branch of an alien insurer;
 - (k) A person who investigates, negotiates, or settles claims arising under a life, accident and health, or disability insurance policy or annuity contract;
 - (l) An individual employee, under a self-insured arrangement, who adjusts claims on behalf of *the individual's* ~~his or her~~ employer;
 - (m) A licensed agent, attorney-in-fact of a reciprocal insurer, or managing general agent of the insurer, to whom claim authority has been granted by *an* ~~the~~ insurer; or
 - (n) 1. A person who:
 - a. ~~1.~~ Is an employee of a licensed independent adjuster, ~~is~~ ~~or~~ an employee of an affiliate that is a licensed independent adjuster, or is supervised by a licensed independent adjuster, if there are no more than twenty-five (25) persons under the supervision of one (1) licensed individual independent adjuster or licensed agent who is exempt from licensure pursuant to paragraph (m) of this subsection;
 - b. ~~2.~~ Collects claim information from insureds or claimants;
 - c. ~~3.~~ Enters data into an automated claims adjudication system; and
 - d. ~~4.~~ Furnishes claim information to insureds or claimants from the results of the automated claims adjudication system.

2. For purposes of this paragraph, "automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation, and system-generated final resolution of consumer electronic products insurance claims that complies with claim settlement practices pursuant to Subtitle 12 of KRS Chapter 304.
- (11) Notwithstanding any other provision of this subtitle, a license as a public adjuster shall not be required of the following:
 - (a) An attorney licensed to practice law in Kentucky, when acting in his or her professional capacity as an attorney;
 - (b) A person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;
 - (c) A person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster, including photographers, estimators, private investigators, engineers, and handwriting experts;
 - (d) A licensed health care provider or its employee who prepares or files a health claim form on behalf of a patient; or
 - (e) An employee or agent of an insurer adjusting claims relating to food spoilage with respect to residential property insurance in which the amount of coverage for the applicable type of loss is contractually limited to one thousand dollars (\$1,000) or less.
 - (12) Notwithstanding any other provision of this subtitle, a license as a staff adjuster shall not be required of an employee or agent of an insurer adjusting claims relating to food spoilage with respect to residential property insurance in which the amount of coverage for the applicable type of loss is contractually limited to one thousand dollars (\$1,000) or less.
 - (13) For purposes of this section, *except as otherwise provided in subsection (15) of this section*, "home state" means any state or territory of the United States or the District of Columbia in which an independent, staff, or public adjuster:
 - (a) Maintains his, her, or its principal place of residence or business; and
 - (b) Is licensed to act as a resident independent, staff, or public adjuster. ~~[If the state of the principal place of residence does not license an independent, staff, or public adjuster for the line of authority sought, the independent, staff, or public adjuster shall designate as his, her, or its home state, any state in which the independent or public adjuster is licensed and in good standing.]~~
 - (14) Temporary registration for emergency independent or staff adjusters shall be issued by the commissioner in the event of a catastrophe declared in Kentucky in the following manner:
 - (a) An insurer shall notify the commissioner by submitting an application for temporary emergency registration of each individual not already licensed in the state where the catastrophe has been declared, who will act as an emergency independent adjuster on behalf of the insurer;
 - (b) A person who is otherwise qualified to adjust claims, but who is not already licensed in the state, may act as an emergency independent or staff adjuster and adjust claims if, within five (5) days of deployment to adjust claims arising from the catastrophe, the insurer notifies the commissioner by providing the following information, in a format prescribed by the commissioner:
 1. The name of the individual;
 2. The Social Security number of the individual;
 3. The name of the insurer that the independent or staff adjuster will represent;
 4. The catastrophe or loss control number;
 5. The catastrophe event name and date; and
 6. Any other information the commissioner deems necessary; and
 - (c) An emergency independent or staff adjuster's registration shall remain in force for a period not to exceed ninety (90) days, unless extended by the commissioner.

- (15) (a) *As used in this subsection, "home state" has the same meaning as in subsection (13) of this section, except that for purposes of this subsection the term includes any state or territory of the United States or the District of Columbia in which an applicant under this subsection is licensed to act as a resident independent, staff, or public adjuster if the state or territory of the applicant's principal place of residence does not issue an independent, staff, or public adjuster license.*
- (b) Unless refused licensure in accordance with KRS 304.9-440, a nonresident person shall receive a nonresident independent, staff, or public adjuster license if:
1. The person is currently licensed in good standing as an independent, staff, or public adjuster in his, her, or its home state;
 2. The person has submitted the proper request for licensure~~[,]~~ and has paid the fees required by KRS 304.4-010;
 3. The person has submitted, in a form or format prescribed by the commissioner, the uniform individual application; and
 4. The person's designated home state issues nonresident independent, staff, or public adjuster licenses to persons of Kentucky on the same basis.
- ~~(c)(b)~~ The commissioner may:
1. Verify *an applicant's*~~[the independent, staff, or public adjuster's]~~ licensing status through any appropriate database, *including the database maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries;* ~~or [may]~~
 2. Request certification of *an applicant's* good standing.
- ~~(d)(e)~~ As a condition to the continuation of a nonresident adjuster license, the licensee shall maintain a resident adjuster license in his, her, or its home state.
- ~~(e)(d)~~ ~~A~~~~[The]~~ nonresident adjuster license issued under this ~~subsection~~~~[section]~~ shall terminate and be surrendered immediately to the commissioner if the *licensee's* resident adjuster license terminates for any reason, unless:
1. The termination is due to the *licensee*~~[adjuster]~~ being issued a new resident independent, *staff*, or public adjuster license in his, her, or its new home state; ~~and [if]~~
 2. The new resident state *or territory has*~~[does not have]~~ reciprocity with Kentucky~~[, the nonresident adjuster license shall terminate].~~
- ➔Section 2. KRS 304.9-433 is amended to read as follows:
- (1) (a) *Except as provided in paragraph (b) of this subsection, a public adjuster shall not provide services to an insured until a written contract with the insured has been executed on a form that has been prefiled with and approved by the commissioner.*
- (b) *The commissioner may approve a form that allows a public adjuster to be compensated for services provided to an insured prior to the execution of a written contract in emergency circumstances.*
- (c) *A contract between a public adjuster and an insured in violation of paragraph (a) of this subsection shall not be enforceable in this state.*
- (d) *A form prefiled with the commissioner by a public adjuster for approval under paragraph (a) of this subsection shall be subject to disapproval by the commissioner at any time if the form is found to:*
1. *Violate any provision of this chapter;*
 2. *Contain or incorporate by reference any inconsistent, ambiguous, or misleading clauses; or*
 3. *Contain any title, heading, or other indication of its provisions which is:*
 - a. *Misleading; or*
 - b. *Printed in a size of typeface or manner of reproduction so as to be substantially illegible.*

- (e) *A contract between a public adjuster and an insured that was executed on a form that was prefiled with and approved by the commissioner under paragraph (a) of this subsection prior to a disapproval of the form under paragraph (d) of this subsection shall be enforceable to the extent allowed by:*
1. *Ordinary principles of contract; and*
 2. *Any applicable state or federal laws implicated by the contract.*
- (2) A public adjuster shall ensure that all contracts between the public adjuster and the insured for services are in writing and contain the following terms:
- (a) The legible full name of the adjuster signing the contract, as specified in the *department's*~~Department of Insurance~~ licensing records;
 - (b) The *adjuster's* permanent home state business address and phone number;
 - (c) The ~~Department of Insurance~~ license number *issued to the adjuster by the department*;
 - (d) A title of "Public Adjuster Contract";
 - (e) The insured's full name, street address, insurer name, and policy number, if known or upon notification;
 - (f) A description of the loss *or damage* and its location, if applicable;
 - (g) A description of services to be provided to the insured;
 - (h) The signatures of the ~~public~~ adjuster and the insured;
 - (i) The date the contract was signed by:
 1. The ~~public~~ adjuster; and ~~the date the contract was signed by~~
 2. The insured;
 - (j) Attestation language stating that the ~~public~~ adjuster has a letter of credit or a surety bond as required by KRS 304.9-430(3); ~~and~~
 - (k) The full salary, fee, commission, compensation, or other *consideration*~~considerations~~ the ~~public~~ adjuster is to receive for services, *including but not limited to*:~~:-~~
- ~~(2) Any contract that specifies that the public adjuster shall be named as a co-payee on an insurer's payment of a claim is permitted provided that:~~
- 1.~~(a)~~ If the compensation is based on a *percentage*~~share~~ of the insurance settlement, the exact percentage, *which shall be in accordance with Section 5 of this Act*~~shall be specified~~;
 - 2.~~(b)~~ *The* initial expenses to be reimbursed to the ~~public~~ adjuster from the proceeds of the claim payment, ~~shall be~~ specified by type, with dollar estimates; ~~set forth in the contract~~ and ~~with~~
 3. Any additional expenses, if first approved by the insured; ~~and~~
- (l) *A statement that the adjuster shall not give legal advice or act on behalf of or aid any person in negotiating or settling a claim relating to bodily injury, death, or noneconomic damages;*
 - (m) *The process for rescinding the contract, including the date by which rescission of the contract by the adjuster or the insured may occur; and*
 - (n) *A statement that clearly states in substance the following: "Complaints regarding this contract or regarding the public adjuster may be filed with the consumer protection division of the Kentucky Department of Insurance."*
- (3)~~(e)~~
- (a) Compensation provisions in a ~~public adjuster~~ contract *between a public adjuster and an insured* shall not be redacted in any copy of the contract provided to the commissioner.
 - (b) ~~Such~~ A redaction *prohibited under paragraph (a) of this subsection* shall constitute an omission of material fact in violation of KRS 304.9-440 and 304.12-230.
- ~~(3) If the insurer, not later than seventy two (72) hours after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:~~
- ~~(a) Not receive a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim;~~

- ~~(b) Inform the insured that the claim settlement amount may not be increased by the insurer; and~~
- ~~(c) Be entitled only to reasonable compensation from the insured for services provided by the public adjuster on behalf of the insured, based on the time spent on a claim and expenses incurred by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.~~
- ~~(4) A public adjuster shall provide the insured with a written disclosure concerning any direct or indirect financial interest that the public adjuster has with any other party who is involved in any aspect of the claim, other than the salary, fee, commission, or other consideration established in the written contract with the insured, including but not limited to any ownership of, other than as a minority stockholder, or any compensation expected to be received from, any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop, or any other firm that provides estimates for work, or that performs any work, in conjunction with damages caused by the insured loss on which the public adjuster is engaged.~~

~~For purposes of this subsection, "firm" includes any corporation, partnership, association, joint stock company, or person.]~~

- ~~(4)(5)~~ A ~~public adjuster~~ contract ***between a public adjuster and an insured shall***~~may~~ not contain any contract term that:
- (a) Allows the ~~public~~ adjuster's percentage fee to be collected when money is due from an insurer, but not paid;~~or~~
- (b) Allows ~~the~~~~a public~~ adjuster to collect the entire fee from the first check issued by an insurer, rather than as a percentage of each check issued by an insurer;
- ~~(c)(b)~~ Requires ~~an~~~~the~~ insured to authorize an insurer to issue a check only in the name of the ~~public~~ adjuster;
- ~~(d)(c)~~ Imposes collection costs or late fees;~~or~~
- ~~(e)(d)~~ ***Allows the adjuster's rate of compensation to be increased based on the fact that a claim is litigated; or***
- (f) Precludes ~~the~~~~a public~~ adjuster from pursuing civil remedies.

- ~~(5)(6)~~ Prior to the signing of ~~a~~~~the~~ contract ***with an insured***, a public adjuster shall provide the insured with a separate disclosure document regarding the claim process that ***states***~~shall state~~ the following:

"Property insurance policies obligate the insured to present a claim to his or her insurance company for consideration. Three (3) types of adjusters may be involved in the claim process as follows:

1. "Staff adjuster" means an insurance adjuster who is an employee of an insurance company, who represents the interest of the insurance company, and who is paid by the insurance company. A staff adjuster shall not charge a fee to the insured;
2. "Independent adjuster" means an insurance adjuster who is hired on a contract basis by an insurance company to represent the insurance company's interest in the settlement of the claims and who is paid by the insurance company. An independent adjuster shall not charge a fee to the insured; and
3. "Public adjuster" means an insurance adjuster who does not work for any insurance company. A public adjuster works for the insured to assist in the preparation, presentation, and settlement of the claim, and the insured hires a public adjuster by signing a contract agreeing to pay him or her a fee or commission based on a percentage of the settlement or ***another***~~other~~ method of payment.

The insured is not required to hire a public adjuster to help the insured meet his or her obligations under the policy, but has the right to hire a public adjuster. The insured has the right to initiate direct communications with the insured's attorney, the insurer, the insurer's adjuster, the insurer's attorney, and any other person regarding the settlement of the insured's claim. The public adjuster shall not be a representative or employee of the insurer. The salary, fee, commission, or other consideration paid to the public adjuster is the obligation of the insured, not the insurer."

- ~~(6)(7)~~ (a) ~~A~~~~The~~ contract between ~~a~~~~the~~ public adjuster and ~~an~~~~the~~ insured shall be executed in duplicate to provide an original contract to:
1. The public adjuster; and~~an original contract to~~

2. The insured.
- (b) ~~A~~~~The~~ public adjuster's original contract shall be available at all times for inspection by the commissioner without notice.
- (7)~~(8)~~ ***Within seventy-two (72) hours of entering into a contract with an insured, a*** ~~the~~ public adjuster shall provide the insurer:
- (a) A notification letter ***that***:~~;~~~~which~~
1. Has been signed by the insured; ***and***:~~;~~~~authorizing~~
 2. ***Authorizes*** the public adjuster to represent the insured's interest; ***and***
- (b) ***A copy of the contract.***
- ~~(9) The public adjuster shall give the insured written notice of the insured's rights as provided in this section.]~~
- (8)~~(10)~~ (a) The insured ***shall have***~~has~~ the right to rescind ~~a~~~~the~~ contract ***with a public adjuster*** within three (3) business days after the date the contract was signed.
- (b) ~~A~~~~The~~ rescission ***of a public adjuster contract*** shall be:
1. In writing;~~and~~
 2. Mailed or delivered to the public adjuster at the address in the contract; and
 3. Postmarked or received within the three (3) business day period.
- (9)~~(11)~~ If ~~an~~~~the~~ insured exercises the right to rescind ~~a~~~~the~~ contract ***under subsection (8) of this section***, anything of value given by the insured under the contract ***to the public adjuster*** shall be returned to the insured within fifteen (15) business days following receipt by the public adjuster of the rescission notice.
- ~~(12) A public adjuster who receives, accepts, or holds any funds on behalf of an insured toward the settlement of a claim for loss or damage shall deposit the funds in a noninterest-bearing escrow or trust account in a financial institution that is insured by an agency of the federal government in the public adjuster's home state or where the loss occurred.]~~

➔SECTION 3. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) ***A public adjuster shall give an insured written notice of the insured's rights under this section and Sections 2 and 4 of this Act.***
- (2) ***A public adjuster shall ensure that:***
 - (a) ***Prompt notice of a claim is provided to the insurer;***
 - (b) ***The property that is subject to a claim is available for inspection of the loss or damage by the insurer; and***
 - (c) ***The insurer is given the opportunity to interview the insured directly about the loss or damage and claim.***
- (3) ***A public adjuster shall not restrict or prevent an insurer or its adjuster, or an attorney, investigator, or other person acting on behalf of the insurer, from:***
 - (a) ***Having reasonable access, at reasonable times, to:***
 1. ***The insured or claimant; or***
 2. ***The insured property that is the subject of a claim;***
 - (b) ***Obtaining necessary information to investigate and respond to a claim; or***
 - (c) ***Corresponding directly with the insured regarding the claim, except a public adjuster shall be copied on any correspondence with the insured relating to the claim.***
- (4) (a) ***A public adjuster shall not act or fail to reasonably act in any manner that obstructs or prevents the insurer or its adjuster from timely conducting an inspection of any part of the insured property for which there is a claim for loss or damage.***

- (b) *Except as provided in paragraph (c) of this subsection, a public adjuster representing an insured may be present for the insurer's inspection.*
- (c) *If the unavailability of a public adjuster, after a reasonable request by the insurer, otherwise delays the insurer's timely inspection of the property, the insured shall allow the insurer to have access to the property without the participation or presence of the public adjuster in order to facilitate the insurer's prompt inspection of the loss or damage.*
- (5) *A public adjuster shall provide the insured, the insurer, and the commissioner with a written disclosure concerning any direct or indirect financial interest that the adjuster has with any other party who is involved in any aspect of the claim.*
- (6) *A public adjuster shall not:*
 - (a) *Participate, directly or indirectly, in the reconstruction, repair, or restoration of damaged property that is the subject of a claim adjusted by the adjuster;*
 - (b) *Engage in any activities that may be reasonably construed as a conflict of interest, including, directly or indirectly, soliciting or accepting any remuneration of any kind or nature;*
 - (c) *Have a financial interest in any salvage, repair, or any other business entity that obtains business in connection with any claim that the public adjuster has a contract to adjust; or*
 - (d)
 1. *Use claim information obtained in the course of any claim investigation for commercial purposes.*
 2. *As used in subparagraph 1. of this paragraph, "commercial purposes" includes marketing or advertising used for the benefit of the public adjuster.*

➔SECTION 4. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *All funds received or held by a public adjuster on behalf of an insured toward the settlement of a claim shall be:*
 - (a) *Handled in a fiduciary capacity; and*
 - (b) *Deposited into one (1) or more separate noninterest-bearing fiduciary trust accounts in a financial institution licensed to do business in this state no later than the close of the second business day from the receipt of the funds.*
- (2) *The funds referenced in subsection (1) of this section shall:*
 - (a) *Be held separately from any personal or nonbusiness funds;*
 - (b) *Not be commingled or combined with other funds;*
 - (c) *Be reasonably ascertainable from the books of accounts and records of the public adjuster; and*
 - (d) *Be disbursed within thirty (30) calendar days of any invoice received by the public adjuster upon approval of the insured or the claimant that the work has been satisfactorily completed.*
- (3) *A public adjuster shall maintain an accurate record and itemization of any funds deposited into an account under subsection (1) of this section in accordance with KRS 304.9-435.*

➔SECTION 5. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (2) of this section:*
 - (a) *Any fee charged to an insured by a public adjuster shall be:*
 1. *Based only on the amount of the insurance settlement proceeds actually received by the insured; and*
 2. *Collected by the public adjuster after the insured has received the insurance settlement proceeds from the insurer;*
 - (b) *A public adjuster may receive a commission for services provided under this subtitle consisting of:*
 1. *An hourly fee;*

2. *A flat rate;*
 3. *A percentage of the total amount paid by the insurer to resolve a claim; or*
 4. *Another method of compensation; and*
- (c) *A public adjuster:*
1. *Shall not charge an unreasonable fee; and*
 2. *May charge a reasonable fee that does not exceed:*
 - a. *For noncatastrophic claims, fifteen percent (15%) of the total insurance recovery of the insured; and*
 - b. *For catastrophic claims, ten percent (10%) of the total insurance recovery of the insured.*
- (2) *If an insurer, not later than seventy-two (72) hours after the date on which a loss or damage is reported to the insurer, either pays or commits in writing to pay the policy limit of the insurance policy to the insured, a public adjuster shall:*
- (a) *Not receive a commission consisting of a percentage of the total amount paid by the insurer to resolve a claim;*
 - (b) *Inform the insured that the claim settlement amount may not be increased by the insurer; and*
 - (c) *Be entitled only to reasonable compensation from the insured for services provided by the adjuster on behalf of the insured, based on the time spent on the claim and expenses incurred by the adjuster prior to when the claim was paid or the insured received a written commitment to pay from the insurer.*

➔Section 6. KRS 304.9-440 is amended to read as follows:

- (1) The commissioner may place on probation, suspend, or may impose conditions upon the continuance of a license for not more than twenty-four (24) months, revoke, or refuse to issue or renew any license issued under this subtitle or any surplus lines broker, life settlement broker, or life settlement provider license, or may levy a civil penalty in accordance with KRS 304.99-020, or any combination of actions for any one (1) or more of the following causes:
- (a) Providing incorrect, misleading, incomplete, or materially untrue information in ~~a~~^{the} license application;
 - (b) Violating any insurance laws, or violating any administrative regulations, subpoena, or order of the commissioner or of another state's insurance commissioner;
 - (c) Obtaining or attempting to obtain a license through misrepresentation or fraud;
 - (d) Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance or the business of life settlements;
 - (e) Intentionally misrepresenting the terms of an actual or proposed insurance contract, life settlement contract, or application for insurance;
 - (f) Having been convicted of or having pled guilty or nolo contendere to any felony;
 - (g) Having admitted or been found to have committed any unfair insurance trade practice, insurance fraud, or fraudulent life settlement act;
 - (h) Using fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility; or being a source of injury or loss to the public in the conduct of business in this state or elsewhere;
 - (i) Having an insurance license, life settlement license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;
 - (j) Surrendering or otherwise terminating any license issued by this state or by any other jurisdiction, under threat of disciplinary action, denial, or refusal of the issuance of or renewal of any other license issued by this state or by any other jurisdiction; or revocation or suspension of any other license held by the licensee issued by this state or by any other jurisdiction;

- (k) Forging another's name to an application for insurance, to any other document related to an insurance transaction, or to any document related to the business of life settlements;
 - (l) Cheating, including improperly using notes or any other reference material to complete an examination for license;
 - (m) Knowingly accepting insurance or life settlement business from an individual or business entity who is not licensed, but who is required to be licensed under this subtitle;
 - (n) Failing to comply with an administrative or court order imposing a child support obligation;
 - (o) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax;
 - (p) Having been convicted of a misdemeanor for which restitution is ordered in excess of three hundred dollars (\$300), or of any misdemeanor involving dishonesty, breach of trust, or moral turpitude;
 - (q) Failing to no longer meet the requirements for initial licensure;
 - (r) If a life settlement provider, demonstrating a pattern of unreasonable payments to owners or failing to honor contractual obligations set out in a life settlement contract;
 - (s) Entering into any life settlement contract or using any form that has not been approved pursuant to Subtitle 15 of this chapter;
 - (t) If a licensee, having assigned, transferred, or pledged a policy subject to a life settlement contract to a person other than a life settlement provider licensed in this state, an accredited investor or qualified institutional buyer as defined, respectively, in Regulation D, Rule 501 or Rule 144a of the Federal Securities Act of 1933, as amended, a financing entity, a special purpose entity, or a related provider trust; or
 - (u) Any other cause for which issuance of the license could have been refused, had it then existed and been known to the commissioner.
- (2) (a) ***For any public adjuster or apprentice adjuster supervised by a public adjuster under KRS 304.9-432, the commissioner may deny, suspend, or revoke the adjuster's license or impose a fine not to exceed five thousand dollars (\$5,000) per act against the adjuster, or both, for any of the following causes:***
1. ***Violating any provision of this chapter;***
 2. ***Violating any administrative regulation or order of the commissioner;***
 3. ***Receiving payment or anything of value as a result of an unfair or deceptive practice;***
 4. ***Receiving or accepting any fee, kickback, or other thing of value pursuant to any agreement or understanding, oral or otherwise, from anyone other than an insured;***
 5. ***Entering into a split-fee arrangement with another person who is not a public adjuster; or***
 6. ***Being otherwise paid or accepting payment for public adjuster services that have not been performed.***
- (b) ***The sanctions and penalties under this subsection shall be in addition to any other remedies, penalties, or sanctions available to the commissioner against a public adjuster or an apprentice adjuster supervised by a public adjuster under KRS 304.9-432 under this section or any other law.***
- (3) The license of a business entity may be suspended, revoked, or refused for any cause relating to an individual designated in or registered under the license if the commissioner finds that:
- (a) An individual licensee's violation was known or should have been known by one (1) or more of the partners, officers, or managers acting on behalf of the business entity; and
 - (b) The violation was not reported to the department~~[of Insurance]~~ nor corrective action taken.
- (4)~~(3)~~ (a) The license of a pharmacy benefit manager may, in the discretion of the commissioner, be suspended, revoked, or refused for any cause enumerated in subsection (1) of this section, and for violations of KRS 205.647, 304.9-053, 304.9-054, 304.9-055, and 304.17A-162.
- (b) The pharmacy benefit manager shall also be subject to the same civil penalties under KRS 304.99-020 as an insurer.

- ~~(5)~~~~(4)~~ The applicant or licensee may make written request for a hearing in accordance with KRS 304.2-310.
- ~~(6)~~~~(5)~~ The commissioner shall retain the authority to enforce the provisions and penalties of this chapter against any individual or business entity who is under investigation for or charged with a violation of this chapter, even if the individual's or business entity's license has been surrendered or has lapsed by operation of law.
- ~~(7)~~~~(6)~~ The commissioner may suspend, revoke, or refuse to renew the license of a licensed insurance agent operating as a life settlement broker, pursuant to KRS 304.15-700, if the commissioner finds that such insurance agent has violated the provisions of KRS 304.15-700 to 304.15-725.
- ~~(8)~~~~(7)~~ If the commissioner denies a license application or suspends, revokes, or refuses to renew the license of a life settlement provider or life settlement broker, or suspends, revokes, or refuses to renew the license of a licensed life insurance agent operating as a life settlement broker pursuant to KRS 304.15-700, the commissioner shall comply with the provisions of this section and KRS Chapter 13B.
- ~~(9)~~~~(8)~~ The sanctions and penalties applicable to licenses and licensees under subsection (1) of this section shall also be applicable to registrations and registrants under KRS 304.52-030(3).

➔Section 7. Pursuant to KRS 304.2-110, the commissioner may promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of this Act.

Signed by Governor March 17, 2023.

CHAPTER 12

(HB 313)

AN ACT relating to economic development.

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

- ➔Section 1. KRS 65.503 is amended to read as follows:
- (1) The West End Opportunity Partnership shall be governed by a board. The board shall initially consist of the following members:
- (a) One (1) member appointed by the Governor for a term of two (2) years;
 - (b) One (1) member appointed by the mayor of a consolidated local government for a term of two (2) years;
 - (c) One (1) member of the legislative council of the consolidated local government appointed by its members for a term of three (3) years;
 - (d) A representative of the University of Louisville appointed by its board of trustees for a term of three (3) years;
 - (e) A representative of Simmons College of Kentucky appointed by its board of trustees for a term of three (3) years; and
 - (f) 1. The following shall be appointed by the Governor:
 - a. One (1) member from the NAACP of Louisville;
 - b. One (1) member from OneWest in Louisville;
 - c. One (1) member from Louisville Urban League;
 - d. One (1) member from the Federal Reserve Bank in Louisville;
 - e. One (1) member from the Volunteers of America Mid States in Louisville;
 - f. One (1) member from a locally based foundation with assets over one hundred million dollars (\$100,000,000); and
 - g. One (1) member from a bank with local assets greater than one billion dollars (\$1,000,000,000).

2. The initial appointments of the members described in subparagraph 1. of this paragraph shall be for terms as follows:
 - a. Two (2) members for a term of one (1) year;
 - b. Two (2) members for a term of two (2) years;
 - c. Two (2) members for a term of three (3) years; and
 - d. One (1) member for a term of four (4) years.
- (2) The board shall include in its bylaws a process for appointing one (1) member from each of the nine (9) neighborhoods in the development area as additional members. The process shall:
 - (a) Ensure the nine (9) members are each from a different neighborhood;
 - (b) Require that, at all times, at least one (1) of the nine (9) members representing the neighborhoods shall be between the ages of eighteen (18) and thirty (30) at the time of appointment or reappointment; and
 - (c) Provide that the initial appointment of the members be for terms as follows:
 1. Four (4) members for a term of two (2) years; and
 2. Five (5) members for a term of three (3) years.
- (3) ***If a member appointed under subsection (1) of this section is unable or unwilling to serve on the board, the board may substitute an appointed member by majority vote to serve on the board for the remainder of the appointee's term. The board shall identify an entity that is located in or has a history of service to the West End Opportunity Partnership area from which a potential substitute appointee can be selected.***
- (4) After expiration of the term limits provided in subsections (1) and (2) of this section, the board shall self-perpetuate. The overall makeup of the board shall remain the same unless an institution ceases to exist or changes corporate form. All successors of the representatives described in subsection (1) of this section shall serve four (4) year terms and all successors of the representatives described in subsection (2) of this section shall serve three (3) year terms. No individual shall serve more than two (2) consecutive terms.
- ~~(5)~~~~(4)~~ The head of economic development for the consolidated local government, or his or her designee, and the secretary of the Cabinet for Economic Development, or his or her designee, shall be nonvoting, ex officio members of the West End Opportunity Partnership;
- ~~(6)~~~~(5)~~ The membership of the board shall not exceed twenty-one (21) voting members.
- ~~(7)~~~~(6)~~ The majority of the board's membership shall reflect the racial majority of the residents living in the development area.
- ~~(8)~~~~(7)~~ A chair of the board shall be selected annually from its members and shall have responsibility for board meeting agendas and presiding at board meetings.
- ~~(9)~~~~(8)~~ Members of the board shall be entitled only to reimbursement from the West End Opportunity Partnership for actual expenses incurred in the performance of their duties as board members.
- ~~(10)~~~~(9)~~ A majority of the entire voting members of the board shall constitute a quorum, and all actions of the board shall be by vote of a majority of its entire voting membership.
- ~~(11)~~~~(10)~~ A member of the board shall abstain from action on an official decision in which he or she has or may have a personal or private interest, or if the member is affiliated with any party conducting business with the West End Opportunity Partnership, shall disclose the existence of that personal or private interest or affiliation in writing to the other members of the board on the same day on which the member becomes aware that the interest or affiliation exists or that an official decision may be under consideration by the board. The member which has or may have a personal or private interest or affiliation shall be absent from all meetings and votes in relation to the matter.
- ~~(12)~~~~(11)~~ As a prerequisite to service, each appointee to the board and each member of the West End Louisville Advisory Council established in KRS 65.506 shall participate in a board-sanctioned training program on the topics of community and economic development, finance, equity and community engagement, gentrification, and the implications of these concepts.

➔Section 2. KRS 65.505 is amended to read as follows:

- (1) All documentation, records, and release of incremental revenues relating to local tax revenues shall be maintained and determined by the governing body.
- (2) All documentation, records, and release of incremental revenues relating to state tax revenues shall be maintained and determined by the Department of Revenue.
- (3) Upon notice from the West End Opportunity Partnership, the governing body obligated under a local participation agreement and the Department of Revenue shall release to the West End Opportunity Partnership the incremental revenues due.
- (4)
 - (a) The governing body and the Department of Revenue shall have no obligation to refund or otherwise return any of the incremental revenues to the taxpayer from whom the incremental revenues arose or are attributable.
 - (b) No additional incremental revenues resulting from audit, amended returns, or other activity for any period shall be transferred after the initial release to the West End Opportunity Partnership for that period.
- (5) If the West End Opportunity Partnership issues bonds for development within the development area and incremental revenues have been pledged for that development, the West End Opportunity Partnership shall maintain a separate account to account for the:
 - (a) Bond proceeds received;
 - (b) Incremental revenues received; and
 - (c) Payment of debt charges of the bond.
- (6) The West End Opportunity Partnership shall provide a biennial report to the Interim Joint Committee on Appropriations and Revenue on or before August 1, 2023, and on or before August 1 of each odd-numbered year thereafter. The report shall contain the following information:
 - (a) The amounts of moneys received by private sector investors, the consolidated local government, and the Commonwealth, including the party that made the payment;
 - (b) The annual financial statements of the West End Opportunity Partnership, including the current balances of all funds and accounts of the West End Opportunity Partnership;
 - (c) The total amount of state tax revenues and local tax revenues received by the West End Opportunity Partnership for the preceding biennial period categorized by each type of tax;
 - (d) The operating expenditures incurred by the West End Opportunity Partnership, including management fees, investment fees, legal fees, or administrative fees incurred;
 - (e) A list of the projects supported by investments from the West End Opportunity Partnership in the preceding year and a description of the investment amount contributed by the West End Opportunity Partnership for each project;
 - (f) The amount of bonds issued or other borrowed moneys received by the West End Opportunity Partnership;
 - (g) Any personal or private interests or affiliated board members as described in KRS 65.503(11)~~((10))~~; and
 - (h) Upon request from the General Assembly, copies of the West End Opportunity Partnership's bylaws and any contracts or agreements in which the West End Opportunity Partnership is a party.

➔Section 3. KRS 154.21-015 is amended to read as follows:

As used in KRS 154.21-010 to 154.21-040:

- (1) "Cabinet" means the Cabinet for Economic Development;
- (2) "Eligible grant recipient" means a grant applicant that is a local government or an economic development authority in an economic development district in this Commonwealth that is engaged in an eligible project;
- (3) "Eligible project" means an economic development project *with available matching funds for the project on a dollar-for-dollar basis* that is *either*:
 - (a) Initiated on publicly owned property; or

(b) *If the project's eligible use includes property acquisition or a due diligence study, then the property shall come with either a:*

1. *Legally binding letter of intent or option for the sale to an eligible grant recipient; or*

2. *Sale agreement for the sale to an eligible grant recipient*~~[on property with a letter of intent or sale agreement for the sale to an eligible grant recipient with available matching funds for the project on a dollar-for-dollar basis and that satisfies the evaluation criteria in KRS 154.21-035];~~

(4) "Eligible use" means the authorized purpose for which an awarded grant may be used depending on the source of funds from the Commonwealth. "Eligible use" may include but is not limited to expenditure in any of the following categories or some combination thereof:

- (a) Due diligence study;
- (b) Property acquisition;
- (c) Infrastructure extension or improvement;
- (d) Site preparation work;

(e) *Building construction or renovation;* or

~~(f)(e)~~ Road improvement; and

(5) "Regional project" means an eligible project that is proposed by eligible grant recipients residing in different counties in this Commonwealth who submit a single grant application as co-applicants.

➔Section 4. KRS 154.21-020 is amended to read as follows:

(1) The Kentucky Product Development Initiative is hereby established under the cabinet. The cabinet shall partner with the Kentucky Association for Economic Development to administer the program. The cabinet's administration of the program includes but is not limited to the following:

- (a) Creating and making available a standardized grant application and regional grant application;
- (b) *Adopting*~~[Developing]~~ a standardized scoring system pursuant to KRS 154.21-040;
- (c) Reviewing the applications and proposals submitted by the proposed grant recipients;
- (d) Verifying the eligibility of the proposed grant recipients;
- (e) Verifying that the proposed grant recipient seeks grant money for an eligible project prior to prioritizing and recommending the eligible grant recipient and eligible project to the cabinet; and
- (f) Awarding grants to selected eligible grant recipients in two (2) rounds of funding.

(2) Upon receipt of eligible grant recipients and eligible project recommendations and prioritization from the Kentucky Association for Economic Development and the third-party independent site selection consultant, the cabinet shall verify and process the eligible grant recipients and eligible project recommendations with the intent to approve and award grants matching the selected grant recipient's contribution to its eligible project on a dollar-for-dollar basis, under the economic development fund program pursuant to KRS 154.12-100~~, up to ten percent (10%) of the total funds appropriated to the Kentucky Product Development Initiative by the General Assembly~~].

(3) (a) Prior to the first round of grant awards, the cabinet shall allocate a percentage of the total funds appropriated to this program by the General Assembly to each county in the Commonwealth. When awarding grants in the first round of funding, the cabinet shall not award grants to an eligible grant recipient or a group of eligible grant recipients in excess of the amount allocated to the county in which it or they are located, except when pooled pursuant to subsection (4) of this section. The allocation shall be made according to the following calculations:

- 1. For all counties except Jefferson County, the percentage of the fund each county is eligible to receive shall be *determined by each county's proportion of the state's population based on the most recent federal decennial census*~~;~~~~[the percentage of the state population that the county's total population makes up, then multiplied by two (2); and]~~
- 2. For Jefferson County, the percentage of the fund it shall be eligible to receive *shall be determined by the county's proportion of the state's population based on the most recent*

~~*federal decennial census, which shall be discounted by fifty percent (50%); and [is the percentage of the state population that Jefferson County's total population makes up]*~~

3. ***The maximum funding available for an approved development project is two million dollars (\$2,000,000) per county except as permitted by subsection (4) of this section.***
 - (b) If there are funds available after the first round of grant awards, the cabinet shall initiate a second round of grant awards through the Kentucky Product Development Initiative. Any remaining funds available for program use shall be pooled and available to eligible grant recipients from all counties on a first-come, first-served basis, but each county's eligible allocation shall not exceed two million dollars (\$2,000,000) except as permitted by subsection (4) of this section.
- (4) For selected eligible grant recipients that are involved in a regional project, the cabinet may pool the potential allocation of funds available for each county represented by the eligible grant recipients for the grant amount awarded. For example, if a county that is eligible for up to ten percent (10%) of the program funds based on the calculations in subsection (3) of this section partners with a county that is eligible for five percent (5%) of the program funds based on the calculations in subsection (3) of this section, then the total allocation for the regional project that the cabinet may award is fifteen percent (15%).
- (5) Grant applicants ***that have received discretionary mega-development project funding***~~[located in a county that participates in the Rural Project Development Initiative]~~ shall be disqualified from participation in the Kentucky Product Development Initiative.

➔Section 5. KRS 154.21-035 is amended to read as follows:

- (1) The Kentucky Association for Economic Development shall evaluate each applicant's eligible project according to the criteria described in this section and KRS 154.21-040 for the purposes of compiling a recommendation and score for the eligible project and project site pursuant to KRS 154.21-040.
- (2) The Kentucky Association for Economic Development and the third-party independent site selection consultant shall consider the requirements in the following five (5) categories in the evaluation of proposed projects:
 - (a) Property availability as described in subsection (3) of this section;
 - (b) Property development ability as described in subsection (4) of this section;
 - (c) Zoning availability as described in subsection (5) of this section;
 - (d) Transportation accessibility as described in subsection (6) of this section; and
 - (e) Utility adequacy as described in subsection (7) of this section.
- (3) The property that the eligible project occupies or is proposed to occupy shall be available. Property shall be deemed available for the purposes of this program if the property is:
 - (a) Publicly owned; or
 - (b) ***If the project's eligible use includes property acquisition or a due diligence study, then the property shall come with either a:***
 1. ***Legally binding letter of intent or option for the sale to an eligible grant recipient; or***
 2. ***Sale agreement for the sale to an eligible recipient***~~[Property with a letter of intent or sale agreement for the sale to an eligible grant recipient].~~
- (4) The property that the eligible project occupies or is proposed to occupy shall be developable. Property shall be deemed developable if:
 - (a) The acreage intended for development is clearly defined by either:
 1. The grant applicant; or
 2. An engineering partner during or after a site visit, if the applicant is unable to define the developable acreage; and
 - (b) The property is free of impediments to development, or a known impediment can be mitigated by a grant applicant. A property is free of impediments if it:
 1. Is located outside of the one hundred (100) year and five hundred (500) year flood zone;

2. Is free of recognized environmental conditions;
 3. Is free of wetlands;
 4. Is free of state and federally threatened and endangered species;
 5. Is free of areas of archaeological or historical significance; and
 6. Possesses soils compatible with the grant applicant's intended development.
- (5) The property that the eligible project occupies or is proposed to occupy shall be appropriately zoned for the intended use or shall be able to be rezoned within ninety (90) calendar days. The properties surrounding the grant applicant's project site shall be zoned so they are compatible with the grant applicant's intended development and use of the project site.
- (6) The property that the eligible project occupies or is proposed to occupy shall be directly served by a road or roads that are compatible with the intended use of the property. Additionally, if the property is marketed as rail-served, the property shall be deemed rail-served if:
- (a) The grant applicant provides documentation from the rail provider that evinces that rail infrastructure exists and the rail provider actually provides rail service; or
 - (b) If the rail service does not exist at the time of the grant application, the grant applicant provides documentation from the rail provider that evinces that the project site will be able to be rail-served within twelve (12) months.
- (7) The property that the eligible project occupies or is proposed to occupy shall have access to adequate utilities and shall be served or able to be served by the following:
- (a) Electric infrastructure;
 - (b) Natural gas;
 - (c) Water infrastructure and a public water system;
 - (d) Wastewater infrastructure and a public wastewater treatment plant, excluding a septic wastewater treatment system; and
 - (e) Fiber telecommunications infrastructure.

Signed by Governor March 17, 2023.

CHAPTER 13

(SB 144)

AN ACT relating to the Kentucky battlefield preservation fund.

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

➔Section 1. KRS 171.394 is amended to read as follows:

- (1) There is hereby established in the State Treasury a trust and agency account to be known as the Kentucky battlefield preservation fund.
- (2) The account shall consist of moneys received from state appropriations, gifts, grants, and federal funds.
- (3) The account shall be administered by the Kentucky Heritage Council.
- (4) Notwithstanding KRS 45.229, moneys in the account not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.
- (5) Any interest earnings of the account shall become a part of the account and shall not lapse.
- (6) Moneys deposited into the account are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.

- (7) (a) Amounts deposited in the account shall be used exclusively by the Kentucky Heritage Council to provide grants. Grants shall be made to private nonprofit organizations.
- (b) All grants shall be made solely for the fee simple purchase of, or purchase of protective interests in:
1. Any Kentucky battlefield site considered in:
 - a. The report issued by the Civil War Sites Advisory Commission, National Park Service, 1993, as amended, entitled Report on the Nation's Civil War Battlefields; or
 - b. The report prepared by the American Battlefield Protection Program, National Park Service, U.S. Department of the Interior, September 2007, as amended, entitled Report to Congress on the Historic Preservation of Revolutionary War and War of 1812 Sites in the United States; or
 2. Any site associated with the Underground Railroad that is eligible for National Historic Landmark designation or for listing in the National Register of Historic Places.
- (8) (a) Private nonprofit organizations seeking grant funding from the account shall be required to provide matching funds from any non-state sources *as follows*:
1. On a dollar-for-dollar basis *for Civil War battlefields and Underground Railroad sites; or*
 2. ***One dollar (\$1) for each three dollars (\$3) from the account for Revolutionary War battlefields.***
- (b) For the purposes of this subsection, "matching funds" means cash or the donation of land, or interest therein, made by the landowner as part of the proposed project.
- (c) No state funds may be included in determining the amount of the match.
- (d) Grants from the account shall ***be based on***~~not exceed fifty percent (50%) of~~ the appraised value of the land or permanent protective interests therein ***and the matching fund ratios established in paragraph (a) of this subsection.***
- (e) Grants from the account may be awarded for prospective purchases.
- (9) Eligible costs for which moneys from the account may be allocated include:
- (a) Acquisition of land and any improvements thereon;
 - (b) Permanent protective interests;
 - (c) Conservation easements;
 - (d) Costs of appraisals;
 - (e) Environmental reports;
 - (f) Surveys;
 - (g) Title searches and title insurance; and
 - (h) Any other closing costs.
- (10) (a) Any eligible organization making an acquisition of land or interest therein shall grant to the Commonwealth a perpetual easement placing restrictions on the use or development of the land.
- (b) All terms and conditions of the easement shall be reviewed by and found by the Kentucky Heritage Council to be consistent with other conservation easements under KRS 67A.840 to 67A.850.
- (c) Any eligible organization shall demonstrate to the Kentucky Heritage Council that it has the capacity and expertise to manage and enforce the terms of the easement.
- (11) The Kentucky Heritage Council shall:
- (a) Establish, administer, manage, and make expenditures and allocations from the account;
 - (b) Establish guidelines for applications for grants of moneys from the account;
 - (c) Prioritize and award grants of moneys from the account; and
 - (d) Consider in relation to core and study areas of the sites identified in subsection (7)(b) of this section:

1. The significance of the site;
 2. The location of the proposed project;
 3. The proximity to other protected lands;
 4. The threat to and integrity of the features associated with the historic significance of the site; and
 5. The financial and administrative capacity of the applicant to complete the project and to maintain and manage the property consistent with the public investment and public interest, including:
 - a. Education;
 - b. Recreation;
 - c. Research;
 - d. Heritage tourism promotion; or
 - e. Orderly community development.
- (12) Nothing in this section shall be construed to prevent the subsequent transfer of property acquired under this section to the United States of America, its agencies, or instrumentalities.

Signed by Governor March 17, 2023.

CHAPTER 14

(SB 12)

AN ACT relating to physician wellness programs.

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

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

As used in Sections 1 to 4 of this Act:

- (1) (a) *"Physician wellness program" means a program that:*
1. *Is organized or contracted for by a Kentucky-based trade association exempt under 26 U.S.C. sec. 501(c)(6) of the Internal Revenue Code that represents physicians licensed to practice medicine or osteopathy in Kentucky; and*
 2. *Provides counseling, coaching, or similar services to address issues related to career fatigue.*
- (b) *A physician wellness program does not include an impaired physician program authorized by KRS 311.616.*
- (2) (a) *"Career fatigue" means a work-related, psychological disorder that manifests in emotional exhaustion, depersonalization, and a diminished sense of personal accomplishment.*
- (b) *Career fatigue does not include any condition that impairs the physician's judgment or adversely affects the physician's ability to practice medicine in a competent, ethical, and professional manner.*

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

- (1) *A physician who participates in a physician wellness program shall not be required to disclose such participation to any health care facility, hospital, medical staff, health insurer, government agency, or other entity that requests such information as a condition of participation, employment, credentialing, payment, licensure, compliance, or other requirement.*
- (2) *A physician shall not be required to report information to any health care facility, hospital, medical staff, health insurer, government agency, or other entity regarding another physician who is a participant in a physician wellness program.*
- (3) *The failure to disclose or report information relating to the participation by a physician in a physician wellness program shall not be grounds for suspension, removal, termination of employment or contract, or*

any other adverse action by a health care facility, hospital, medical staff, health insurer, government agency, or other entity.

- (4) *The obligation to disclose or report the information relating to the participation by a physician in a physician wellness program shall not be a condition of participation, employment, credentialing, licensure, compliance or other requirement by a health care facility, hospital, medical staff, health insurer, government agency, or other entity.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

A person or entity shall not retaliate, discriminate, or otherwise take adverse action with respect to a physician who is participating in a physician wellness program based solely on the physician's participation.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 4 of this Act shall be construed to:

- (1) *Allow a physician to withhold information requested by the current version of the uniform application form for the evaluation and reevaluation of health care providers required by KRS 304.17A-545; or*
- (2) *Waive a physician's obligation to:*
- (a) *Disclose information regarding any condition for which the physician is not being appropriately treated and that impairs the physician's judgment or adversely affects the physician's ability to practice medicine in a competent, ethical, and professional manner; or*
- (b) *Report information regarding another physician to the Kentucky Board of Medical Licensure under KRS 311.606.*

Signed by Governor March 17, 2023.

CHAPTER 15

(SB 28)

AN ACT relating to small farm wineries and declaring an emergency.

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

➔Section 1. KRS 243.155 is amended to read as follows:

- (1) ~~Any in-state or out-of-state~~ small farm winery may apply for a small farm winery license. In addition to all other licensing requirements, an applicant for a small farm winery license shall submit with its application a copy of the small farm winery's federal basic permit and proof documenting its annual wine production. ~~As part of the application process, an out-of-state winery shall submit additional documentation evidencing its resident state. As part of the application process, an out-of-state winery shall publish its notice of intent, as required by KRS 243.360, in the Kentucky newspaper of highest circulation.~~ The board shall promulgate administrative regulations establishing the form the documentation of proof of production shall take.
- (2) A small farm winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses, except that each small farm winery off-premises retail site shall be separately licensed:
- (a) Engage in the business of a winery under the terms and conditions of KRS 243.120 and 243.130, ***except that a small farm winery may sell and deliver wine produced by it to a retailer as authorized by this section.*** The manufacture of wine at the small farm winery shall not be less than two hundred fifty (250) gallons, and shall not exceed five hundred thousand (500,000) gallons, in one (1) year;
- (b) Bottle wines produced by that small farm winery and other licensed small farm wineries;
- (c) Enter into an agreement with another licensed small farm winery under which it crushes, processes, ferments, bottles, or any combination of these services, the grapes, fruits, or other agricultural products of the other small farm winery for a production year. The resulting wine shall be considered the product

of the small farm winery that provides the fruit. The small farm winery providing the custom crushing services may exclude the wine produced under this paragraph from its annual production gallonage;

- (d) If the licensed small farm winery or off-premises retail site premises is located in wet territory or in a precinct that has authorized alcoholic beverage sales by the small farm winery under KRS 242.124:
 1. Serve complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron per day; and
 2. Sell by the drink for on-premises consumption or off-premises consumption pursuant to KRS 243.081, or by the package wine produced by it or by another licensed small farm winery, at retail to consumers;
- (e) Sell by the drink or by the package, at fairs, festivals, and other similar types of events, wine produced by it or by another licensed small farm winery, at retail to consumers if all sales occur in a wet territory;
- (f) Sell and transport wine produced by it to consumers, licensed small farm winery off-premises retail sites, wholesale license holders, and small farm winery license holders, ***except that wine purchased between small farm wineries shall not exceed five hundred (500) gallons per year per small farm winery;***
- (g) Consume on the premises wine produced by the small farm winery or a licensed small farm winery and purchased by the drink or by the package at the licensed premises, if the small farm winery is located in wet territory;~~and~~
- (h) ~~[A small farm winery may]~~Sell wine at retail to consumers in accordance with KRS 243.027 to 243.029 if it holds a direct shipper license; ***and***
- (i) ***Sell and deliver, in accordance with KRS 243.120(1), up to twelve thousand (12,000) gallons of wine produced by it annually to any retail license holder as long as:***
 1. ***Any products sold and delivered under this paragraph that are not otherwise registered by a licensed wholesaler shall be registered with the department by the small farm winery;***
 2. ***The small farm winery is responsible for payment of wine wholesale sales taxes and reporting of self-distributed wines in accordance with KRS 243.884; and***
 3. ***The small farm winery may extend credit on wine sold to retail licensees for a period not to exceed thirty (30) days from the date of invoice, with the date of invoice included in the total number of days.***

This paragraph shall not apply to small farm winery wholesalers licensed under KRS 243.154.

- (3) If the requirements of KRS 242.1241 or 244.290(5) relating to Sunday sales on the licensed premises of a small farm winery are met, a small farm winery within that territory may sell alcoholic beverages on Sunday only in accordance with this section during the hours and times as permitted in the local ordinance for that locality.
- (4) A small farm winery license holder may also hold an NQ2 retail drink license or an NQ4 retail malt beverage drink license if:
 - (a) The small farm winery is located in wet territory or in a precinct that has authorized alcoholic beverage sales by the small farm winery under KRS 242.124; and
 - (b) The issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise designed to promote viticulture, enology, and tourism.
- (5) This section shall not exempt the holder of a small farm winery license from the provisions of KRS Chapters 241 to 244, nor from the administrative regulations of the board, nor from regulation by the board at all premises licensed by the small farm winery, except as expressly stated in this section.
- (6) Nothing contained in this section shall exempt a licensed out-of-state winery from obeying the laws of its resident state.
- (7) Upon the approval of the department, a small farm winery license may be renewed after the licensee submits to the department the winery's federal basic permit and proof of its annual wine production.

- (8) An employee of a small farm winery may sample the products produced by that small farm winery for purposes of education, quality control, and product development.

➔Section 2. KRS 243.355 is amended to read as follows:

- (1) A distilled spirits and wine storage license may be issued as a primary license or as a supplementary license to the holder of a *wholesaler's license, small farm winery's license*, distiller's license, rectifier's license, or quota retail package license.
- (2) A distilled spirits and wine storage license may be issued to any person operating a bonded warehouse for distilled spirits, and who does not at the same time, and for the same premises, hold a federal operating permit for distilling purposes, but who possesses only a federal operating permit for a bonded warehouse for distilled spirits as defined by federal law and the Internal Revenue Code.
- (3) A licensee under this section may operate a bonded warehouse or warehouses for premises specifically designated, but this license shall become void if a federal operating permit for distilling purposes is issued for the same premises, and shall remain void while the federal permit remains in effect. Upon the granting of a federal operating permit for distilling purposes, the licensee of the premises previously licensed under this section shall obtain a license as set out in KRS 243.030(1).
- (4) A distilled spirits and wine storage license may be issued to persons or entities not otherwise entitled under Kentucky law to store or warehouse distilled spirits or wine, but who are so authorized by the federal government. The license shall authorize the licensee to operate a warehouse or place of storage for distilled spirits or wine on the premises specifically designated.
- (5) A quota retail package licensee holding a supplemental distilled spirits and wine storage license may store distilled spirits and wine at the storage licensed premises convenient to the licensee's regular retail package licensed premises.

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

- (1) (a) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits, all distributors of beer, all direct shipper licensees shipping alcohol to a consumer at a Kentucky address, all distillers making sales pursuant to KRS 243.0305(3), (4)(a)1. and 2. and (c), (7), (9), (10), and (12), ~~and~~ all microbreweries selling malt beverages under KRS 243.157, **and all small farm wineries selling wine under Section 1 of this Act.**
- (b) Prior to July 1, 2015, the tax shall be imposed at the rate of eleven percent (11%) of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth, except as provided in subsection (3) of this section. For the purposes of this section, the gross receipts of a microbrewery making "wholesale sales" shall be calculated by determining the dollar value amount that the microbrewer would have collected had it conveyed to a distributor the same volume sold to a consumer as allowed under KRS 243.157 (3)(b) and (c).
- (c) On and after July 1, 2015, the following rates shall apply:
 1. For distilled spirits, eleven percent (11%) of wholesale sales or sales at wholesale; and
 2. For wine and beer:
 - a. Ten and three-quarters of one percent (10.75%) for wholesale sales or sales at wholesale made on or after July 1, 2015, and before June 1, 2016;
 - b. Ten and one-half of one percent (10.5%) for wholesale sales or sales at wholesale made on or after June 1, 2016, and before June 1, 2017;
 - c. Ten and one-quarter of one percent (10.25%) for wholesale sales or sales at wholesale made on or after June 1, 2017, and before June 1, 2018; and
 - d. Ten percent (10%) for wholesale sales or sales at wholesale made on or after June 1, 2018.
- (d) On and after March 12, 2021, the following rates shall apply for direct shipper sales:
 1. For distilled spirits shipments, eleven percent (11%) for wholesale sales or sales at wholesale; and
 2. For wine and beer shipments, ten percent (10%) for wholesale sales or sales at wholesale.

- (e) For direct shipper sales or sales made pursuant to KRS 243.0305, if a wholesale price is not readily available, the direct shipper licensee or distillery shall calculate the wholesale price to be seventy percent (70%) of the retail price of the alcoholic beverages.
- (2) Wholesalers of distilled spirits and wine, distributors of malt beverages, microbreweries, distillers, and direct shipper licensees shall pay and report the tax levied by this section on or before the twentieth day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine, or malt beverages is transferred from the wholesaler or distributor to retailers, or by microbreweries, distillers, or direct shipper licensees to consumers in this state, in accordance with rules and regulations of the Department of Revenue designed reasonably to protect the revenues of the Commonwealth.
- (3) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:
 - (a) Sales made between wholesalers or between distributors;
 - (b) Sales from the first fifty thousand (50,000) gallons of wine produced by a small farm winery in a calendar year made by:
 - 1. The small farm winery; or
 - 2. A wholesaler of that wine produced by the small farm winery; and
 - (c) Sales made between a direct shipper licensee and a consumer located outside of Kentucky.

➔Section 4. Whereas small farm wineries represent a growing industry in the Commonwealth, and their economic health is of the utmost importance, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 17, 2023.

CHAPTER 16

(SB 46)

AN ACT relating to the reorganization of the Office of State Veterinarian.

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

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

The department shall consist of:

- (1) The Office of the Commissioner;
- (2) The Office of Agricultural Marketing, which shall include the following:
 - (a) The Promotion and Development Division;
 - (b) The Shows and Fairs Division;
 - (c) The Livestock Division;
 - (d) The Plant Division;
 - (e) The Education and Outreach Division; and
 - (f) The Direct Farm Marketing Division;
- (3) The Office for Consumer and Environmental Protection, which shall include the following:
 - (a) The Division of Regulation and Inspection;
 - (b) The Division of Food Distribution; and
 - (c) The Division of Environmental Services;
- (4) The Office of State Veterinarian, which shall include the following:

- (a) The Division of *Regulatory Field Services*~~[Animal Health; and]~~
 - (b) The Division of *Animal Health Programs*~~[Producer Services]; and~~
 - (c) ***The Division of Emergency Preparedness and Response;***
- (5) The Office of Administrative Services, which shall include the following:
 - (a) The Division of Human Resources;
 - (b) The Division of Administrative Services; and
 - (c) The Division of Information Technology;
 - (6) The Office of Communications;
 - (7) The Office of Legal Services;
 - (8) The State Board of Agriculture; and
 - (9) The Kentucky Office of Agricultural Policy, which shall include the following:
 - (a) Agricultural Development Board; and
 - (b) Kentucky Agricultural Finance Corporation.

➔Section 2. KRS 257.330 is amended to read as follows:

- (1) Before any baby chicks or baby poulters are offered for sale at any auction or auctions, sale barn, or community sale, except public sales conducted by farmers selling baby chicks or baby poulters reared on their own premises, a permit shall be secured from the ***Office of State Veterinarian***~~[Division of Animal Health of the Department of Agriculture]~~, or the state veterinarian.
- (2) Any person who desires to offer baby chicks or baby poulters for sale at any auction or auctions, sale barn, or community sale, shall apply to the ***Office of State Veterinarian***~~[division or the state veterinarian]~~ for a permit to hold the sale. A form shall be prescribed and furnished by the ***office***~~[division]~~. This application shall be submitted at least three (3) days before the sale to allow time for inspection of the chicks or poulters offered~~;~~ by a representative of the ***office***~~[division or the state veterinarian]~~ before any chicks or poulters are sold. This application shall be signed by the person who proposes to conduct the sale, together with the person who owns the property in or on which the sale is to be conducted, if the person who proposes to conduct the sale does not own the property. The application shall designate the date of the proposed sale, the number and breed of the chicks or poulters to be offered for sale, and the person or firm by whom they were produced, and shall be accompanied by a fee in the sum of one dollar (\$1) per hundred (100) chicks or poulters to be offered for sale. The ***office***~~[division or the state veterinarian]~~ shall be authorized in their discretion to grant or to deny the permit requested in the application, and if deemed necessary or advisable to require the applicant to submit a certificate in a form as the ***office***~~[division or the state veterinarian]~~ may prescribe, certifying that the baby chicks or baby poulters which may be offered for sale are in healthy condition.
- (3) On inspection by the representative of the ***office***~~[division or state veterinarian]~~, if the chicks or poulters offered for sale are found to be diseased, the representative may confiscate all chicks or poulters found to be diseased and may destroy the chicks and poulters.

➔Section 3. KRS 257.350 is amended to read as follows:

Within three (3) days after the sale, the person who conducted the sale shall submit a statement to the ***Office of State Veterinarian***~~[Division of Animal Health of the Department of Agriculture or the state veterinarian]~~ giving a complete list of the number and kind of baby chicks or poulters sold, name and address of each purchaser, together with a copy of representation and guarantee made in relation to the sale, if any were made by the person who conducted the sale, and the person conducting the sale shall be held to have had full knowledge of the representations and guarantees made at the time of the sale and shall be as fully responsible and liable for any representation and guarantee as is the person who set forth the representation and guarantee on the containers as provided in KRS 257.340.

➔Section 4. KRS 257.370 is amended to read as follows:

In order to promote the poultry industry of this state, the ***Office of State Veterinarian***~~[Division of Animal Health of the Department of Agriculture]~~ is hereby authorized to cooperate with the United States Department of Agriculture in the promulgation and enforcement of regulations for the control and eradication of pullorum disease.

→Section 5. KRS 257.380 is amended to read as follows:

The *Office of State Veterinarian*~~[Division of Animal Health]~~ is hereby authorized to promulgate administrative regulations as may be necessary, after public hearing following due public notice, to carry out the provisions of KRS 257.370 to 257.460.

→Section 6. KRS 257.390 is amended to read as follows:

Chickens, turkeys, or other poultry over five (5) months of age intended for breeding purposes shall not be imported into the state unless they have passed a negative agglutination test for pullorum disease under the supervision of ~~an~~~~the~~ *Office of State Veterinarian*~~[Division of Animal Health]~~ authority of the Office of State Veterinarian within thirty (30) days preceding date of importation, or have originated from flocks authoritatively participating in a pullorum control and eradication phase of the National Poultry Improvement Plan or other USDA-administered plan.

→Section 7. KRS 257.400 is amended to read as follows:

Hatching eggs and all poultry under five (5) months of age including baby chicks, started chicks, turkey poults, and other newly hatched domestic poultry except those intended for immediate slaughter which may be imported into the state under permit issued by ~~the~~ *Office of State Veterinarian*~~[Division of Animal Health]~~, and sold or offered for sale in this state, shall have originated from flocks that meet the pullorum requirements of the National Poultry Improvement Plan or other USDA-administered plan, and the regulations promulgated by authority of KRS 257.370 to 257.460 for the control and eradication of pullorum disease. Nothing in KRS 257.370 to 257.460, however, shall require any hatchery, dealer, or flock owner to participate in the National Poultry Improvement Plan.

→Section 8. KRS 257.410 is amended to read as follows:

Hatching eggs and all poultry under five (5) months of age, including baby chicks, started chicks, turkey poults, other newly hatched domestic poultry, except those intended for immediate slaughter, that are imported into this state shall have originated in flocks that meet the pullorum requirements of the National Poultry Improvement Plan, or other USDA-administered plan, and the administrative regulations promulgated by authority of KRS 257.370 to 257.460. Every container of poultry under five (5) months of age, including baby chicks, started chicks, turkey poults, and any other newly hatched domestic poultry, except those intended for immediate slaughter, and hatching eggs imported into this state shall bear an official label or certificate showing the name and address of the importer, the authority under which the testing for pullorum disease was done, and the pullorum control and eradication class of the product, the use of the certificate or label to be approved by the official state agency or the *Office of State Veterinarian*~~[Division of Animal Health]~~ official of the state of origin.

→Section 9. KRS 257.420 is amended to read as follows:

No person, firm, or corporation shall operate a public hatchery, and no person, dealer, jobber, peddler, or huckster in baby chicks, started chicks, turkey poults, other newly hatched domestic poultry, and hatching eggs shall operate as a public hatchery within this state without obtaining an annual permit from the *Office of State Veterinarian*~~[Division of Animal Health]~~ to so operate, and paying a permit fee of ten dollars (\$10) per annum. This is not intended to require a permit of hatcheries, chick dealers, chick salesmen, or corporations selling less than one thousand (1,000) chicks per year, or egg dealers selling less than thirty-five hundred (3,500) eggs per year.

→Section 10. KRS 257.440 is amended to read as follows:

Any permit may be suspended or canceled by the *Office of State Veterinarian*~~[Division of Animal Health]~~, after opportunity for a hearing to be conducted in accordance with KRS Chapter 13B, for any violation of KRS 257.370 to 257.460 or the regulations promulgated under KRS 257.370 to 257.460. Any person who is refused a permit or whose permit is revoked after a hearing may appeal the final order to the Circuit Court of Franklin County in accordance with KRS Chapter 13B.

→Section 11. KRS 257.450 is amended to read as follows:

All poultry of whatever age or species and all hatching eggs that are sold or offered for sale within this state or enter into this state not in compliance with the provisions of KRS 257.370 to 257.460 shall be quarantined by the *Office of State Veterinarian*~~[Division of Animal Health]~~. Where possible, the ~~office~~~~[division]~~ shall make the tests necessary to determine whether or not pullorum disease is present in any of the quarantined poultry. With respect to all other poultry where tests are not possible, and to hatching eggs, sufficient proof must be presented that they have originated from approved flocks. The poultry or flocks found to be infected with pullorum disease, and the poultry and hatching eggs lacking the required proof of origin from approved flocks, shall be destroyed.

→Section 12. KRS 257.470 is amended to read as follows:

For the purpose of enforcing the provisions of KRS 257.330 to 257.440, the inspectors of the *Office of State Veterinarian*~~[Division of Animal Health]~~ shall have free access to any premises or vehicles for the purpose of inspection.

➔Section 13. KRS 321.200 is amended to read as follows:

- (1) No provision of this chapter shall be construed to prohibit any of the following:
 - (a) Any persons from gratuitously treating animals in cases of emergency, provided they do not use the word "veterinarian," "veterinary," or any title, words, abbreviation, or letters in a manner or under circumstances which may induce the belief that the person using them is qualified to practice veterinary medicine as described in KRS 321.181(5);
 - (b) The owner of any animal or animals and the owner's full-time, or part-time, regular employees from caring for and treating, including administering drugs to, any animals belonging to the owner. Transfer of ownership or a temporary contract shall not be used for the purpose of circumventing this provision;
 - (c) Any person from castrating food animals and dehorning cattle, as long as any drugs or medications are obtained and used in accordance with applicable federal statutes and regulations governing controlled and legend drugs;
 - (d) Any student as defined in KRS 321.181 from working under the direct supervision of a veterinarian who is duly licensed under the laws of this Commonwealth;
 - (e) Nonlicensed graduate veterinarians in the United States Armed Services or employees of the Animal and Plant Health Inspection Service of the United States Department of Agriculture~~[or the Kentucky Department of Agriculture, Division of Animal Health]~~ while engaged in the performance of their official duties, or other lawfully qualified veterinarians residing in other states, from meeting licensed veterinarians of this Commonwealth in consultation;
 - (f) A trainer, sales agent, or herdsman from caring for animals, upon instruction from a Kentucky-licensed veterinarian, provided there is a veterinary-client-patient relationship, as defined in KRS 321.185;
 - (g) A university faculty member from teaching veterinary science or related courses, or a faculty member or staff member from engaging in veterinary research, including drug and drug testing research, provided that research is conducted in accordance with applicable federal statutes and regulations governing controlled and legend drugs;
 - (h) Any person who holds a postgraduate degree in reproductive physiology or a related field, and who has performed embryo transfers in Kentucky during the five (5) years immediately preceding July 14, 1992, from performing embryo transfers;
 - (i) Volunteer health practitioners providing services under KRS 39A.350 to 39A.366; or
 - (j) A retailer or its agent from providing information and suggestions regarding the over-the-counter products it sells to treat animals so long as the information and suggestions are consistent with the product label.
- (2) (a) A nonresident of the United States may be employed in this state to practice veterinary medicine for not more than thirty (30) days of each year, provided he or she:
 1. Holds a valid, current license as a veterinarian in his or her home country;
 2. Practices under the direct supervision of a veterinarian licensed in Kentucky;
 3. Registers with the board prior to commencing practice in the state; and
 4. Agrees to practice and follow all the rules and administrative regulations of this chapter and be subject to discipline for violations of those rules and administrative regulations by the Kentucky Board of Veterinary Examiners.

(b) This subsection shall not apply to a nonresident of the United States who is otherwise eligible for a Kentucky license under this chapter.
- (3) Nothing in this chapter shall interfere with the professional activities of any licensed pharmacist.

Signed by Governor March 17, 2023.

CHAPTER 17

(SB 60)

AN ACT relating to the operation of a motorcycle.

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

➔Section 1. KRS 176.5062 is amended to read as follows:

- (1) The motorcycle safety education program shall offer motorcycle rider training courses designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the proper operation of a motorcycle. The courses shall be taught by instructors approved under KRS 176.5063 and shall include no fewer than eight (8) hours of hands-on instruction for a novice course.
- (2) Rider training courses shall be open to a resident of any state who is eligible for a motor vehicle instruction permit in the person's home state.
- (3) Rider training courses shall be provided free of charge to applicants under eighteen (18) years of age.
- (4) The cabinet shall issue certificates of completion in a manner and form prescribed by administrative regulations promulgated pursuant to KRS Chapter 13A to persons who satisfactorily complete the requirements of a motorcycle rider training course offered or authorized by the state program.
- (5) The Transportation Cabinet shall exempt applicants for a motorcycle *instruction permit or operator's*~~[driver's]~~ license or endorsement from the *written test for a motorcycle instruction permit and the skills*~~[licensing skill]~~ test *for a motorcycle operator's license* if *the applicant presents*~~[they present]~~ satisfactory evidence of successful completion of an approved rider training course that includes a similar test of *knowledge and skills*~~[skill]~~. Applicants under this subsection who successfully completed their testing on a three (3) wheeled motorcycle shall be subject to the restrictions outlined in KRS 186.480(3).
- (6)
 - (a) The Motorcycle Safety Education Commission shall publish a list of approved rider training courses which meet the licensing requirements.
 - (b) The Motorcycle Safety Education Commission shall publish a list of approved instructor training courses which meet the licensing requirements.

➔Section 2. KRS 186.480 (Effective until July 1, 2024) is amended to read as follows:

- (1) The Department of Kentucky State Police shall examine every applicant for an operator's license as identified in KRS 186.635, except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless:
 - (a) The applicant is granted written permission by the Transportation Cabinet to take the examination in another county, and the Department of Kentucky State Police agree to arrange for the examination in the other county; or
 - (b) The applicant is tested using a bioptic telescopic device.
- (2) The examination shall include a test of the applicant's eyesight to ensure compliance with the visual acuity standards set forth in KRS 186.577. The examination shall also include a test of the applicant's ability to read and understand highway signs regulating, warning, and directing traffic, the applicant's knowledge of traffic laws, and an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. The provisions of this subsection shall not apply to an applicant who:
 - (a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident;
 - (b) *At the time of application for a motorcycle instruction permit or motorcycle operator's license, presents evidence of successful completion of an approved rider training course under Section 1 of this Act;* or
 - (c)~~(b)~~ Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his or her operator's license to expire.

- (3) In addition to the requirements of subsection (2) of this section, an applicant for a motorcycle operator's license ***who does not present evidence of successful completion of an approved rider training course under Section 1 of this Act*** shall be required to show his or her ability to operate a motorcycle. An applicant who successfully completes the skills portion of the test under this subsection on a:
- (a) Three (3) wheeled motorcycle shall be issued a motorcycle operator's license restricted to the operation of three (3) wheeled motorcycles under KRS 186.447; or
 - (b) Two (2) wheeled motorcycle shall be issued a motorcycle operator's license without the restriction identified in KRS 186.447, and may operate both two (2) and three (3) wheeled motorcycles.
- (4) Any person whose intermediate license or operator's license is denied, suspended, or revoked for cause shall apply for reinstatement at the termination of the period for which the license was denied, suspended, or revoked by submitting to the examination. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.
- (5) An applicant shall not use an autocycle for any road skills testing administered under the provisions of this section.

➔Section 3. KRS 186.480 (Effective July 1, 2024) is amended to read as follows:

- (1) The Department of Kentucky State Police shall examine every applicant for an operator's license as identified in KRS 186.635, except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless:
- (a) The applicant is granted written permission by the Transportation Cabinet to take the examination in another county; or
 - (b) The applicant is tested using a bioptic telescopic device.
- (2) The examination shall include a test of the applicant's eyesight to ensure compliance with the visual acuity and visual field standards set forth in KRS 186.577. The vision testing outlined in this subsection shall be administered under the provisions established in KRS 186.577 at, or prior to, the time of application. The examination shall also include a test of the applicant's ability to read and understand highway signs regulating, warning, and directing traffic, the applicant's knowledge of traffic laws, and an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. The provisions of this subsection shall not apply to an applicant who:
- (a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident;
 - (b) ***At the time of application for a motorcycle instruction permit or motorcycle operator's license, presents evidence of successful completion of an approved rider training course under Section 1 of this Act;*** or
 - (c) ~~(b)~~ Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his or her operator's license to expire.
- (3) In addition to the requirements of subsection (2) of this section, an applicant for a motorcycle operator's license ***who does not present evidence of successful completion of an approved rider training course under Section 1 of this Act*** shall be required to show his or her ability to operate a motorcycle. An applicant who successfully completes the skills portion of the test under this subsection on a:
- (a) Three (3) wheeled motorcycle shall be issued a motorcycle operator's license restricted to the operation of three (3) wheeled motorcycles under KRS 186.447; or
 - (b) Two (2) wheeled motorcycle shall be issued a motorcycle operator's license without the restriction identified in KRS 186.447, and may operate both two (2) and three (3) wheeled motorcycles.
- (4) Any person whose intermediate license or operator's license is denied, suspended, or revoked for cause shall apply for reinstatement at the termination of the period for which the license was denied, suspended, or revoked by submitting to the examination. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.
- (5) An applicant shall not use an autocycle for road skills testing administered under the provisions of this section.

➔Section 4. KRS 186.450 is amended to read as follows:

- (1) A person who is at least sixteen (16) years of age may apply for an instruction permit to operate a motor vehicle. ***Except as provided in subsection (9) of this section,*** a person who possesses a valid intermediate motor vehicle operator's license issued under KRS 186.452 or a person who is at least eighteen (18) years of age may apply for an instruction permit to operate a motorcycle. A holder of either a motor vehicle or motorcycle instruction permit may also operate a moped under that permit. A person applying for an instruction permit under this section shall make application to the Transportation Cabinet. A person applying for an instruction permit shall be required to comply with the following:
 - (a) If the person is under the age of eighteen (18), the instruction permit application shall be signed by the applicant's parent or legal guardian. If the person does not have a living parent or does not have a legal guardian, the instruction permit application shall be signed by a person willing to assume responsibility for the applicant pursuant to KRS 186.590;
 - (b) If the person is under the age of eighteen (18) and in the custody of the Cabinet for Health and Family Services, the instruction permit application shall be signed by:
 1. The applicant's parent, legal guardian, grandparent, adult sibling, aunt, or uncle if the parental rights have not been terminated in accordance with KRS Chapter 625;
 2. The foster parent with whom the applicant resides;
 3. Another person who is at least age eighteen (18) and is willing to assume responsibility for the applicant pursuant to KRS 186.590; or
 4. The applicant, without another person, upon verification by the Cabinet for Health and Family Services in accordance with KRS 605.102 that shall include proof of financial responsibility in accordance with KRS 186.590(2); and
 - (c) All applicants for an instruction permit shall comply with the examinations required by KRS 186.480.
- (2) If an applicant successfully passes the examinations required by KRS 186.480, the applicant shall be issued an instruction permit upon payment of the fee set forth in KRS 186.531.
- (3)
 - (a) An instruction permit to operate a motor vehicle shall be valid for three (3) years and may be renewed. An instruction permit to operate a motorcycle shall be valid for one (1) year and may be renewed one (1) time.
 - (b) Except as provided in KRS 186.415, a person who has attained the age of sixteen (16) years and is under the age of eighteen (18) years shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an intermediate license and shall have an intermediate license for a minimum of one hundred eighty (180) days before applying for an operator's license.
 - (c) A person who was under eighteen (18) years of age at the time of application for an instruction permit and is eighteen (18) years of age or older shall have the instruction permit a minimum of one hundred eighty (180) days and complete a driver training program under KRS 186.410(4) before applying for an operator's license.
 - (d) A person who is at least eighteen (18) years of age and is under the age of twenty-one (21) years at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an operator's license.
 - (e) A person who is at least twenty-one (21) years of age at the time of application for an instruction permit shall have the instruction permit a minimum of thirty (30) days before applying for an operator's license.
 - (f) In accordance with KRS 176.5062(5), a person whose motorcycle instruction permit has expired may apply to the cabinet to receive a motorcycle operator's license or endorsement if the person presents proof of successful completion of a motorcycle safety education course approved by the Transportation Cabinet under KRS 176.5061 to 176.5069.
- (4)
 - (a) A person shall have the instruction permit in his ***or her*** possession at all times when operating a motor vehicle, motorcycle, or moped upon the highway.

- (b) When operating a motor vehicle, a motor vehicle instruction permit holder shall be accompanied by a person with a valid operator's license who is at least twenty-one (21) years of age occupying the seat beside the operator at all times.
 - (c) The requirements of paragraph (b) of this subsection shall not apply to a motor vehicle instruction permit holder being supervised on a multiple-vehicle driving range by a driver training instructor affiliated with a driver training school licensed under KRS Chapter 332 or a public or nonpublic secondary school.
- (5) A person with an instruction permit who is under the age of eighteen (18) shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. unless the person can demonstrate good cause for driving, including but not limited to emergencies, involvement in school-related activities, or involvement in work-related activities.
 - (6) Except when accompanied by a driver training instructor affiliated with a driver training school licensed under KRS Chapter 332 or a public or nonpublic secondary school, a person with an instruction permit who is under the age of eighteen (18) years shall not operate a motor vehicle at any time when accompanied by more than one (1) unrelated person who is under the age of twenty (20) years. A peace officer shall not stop or seize a person nor issue a uniform citation for a violation of this subsection if the officer has no other cause to stop or seize the person other than a violation of this subsection. This subsection shall not apply to any operator of a vehicle registered under the provisions of KRS 186.050(4) who is engaged in agricultural activities.
 - (7) A violation under subsection (4), (5), or (6) of this section, a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, or a conviction for a violation of KRS 189A.010(1) shall add an additional minimum of one hundred eighty (180) days from the date of the violation before a person who is under the age of eighteen (18) years may apply for an intermediate license to operate a motor vehicle, motorcycle, or moped.
 - (8) A person under the age of eighteen (18) who accumulates more than six (6) points against his *or her* driving privilege may have the driving privilege suspended pursuant to KRS Chapter 186 or probated by the court.
 - (9) ***An applicant who presents evidence of successful completion of an approved rider training course under Section 1 of this Act shall not be required to obtain a motorcycle instruction permit prior to obtaining a motorcycle operator's license.***
 - (10) The Transportation Cabinet shall promulgate administrative regulations, in accordance with KRS Chapter 13A, to establish procedures for:
 - (a) Minors who reside with individuals in informal guardianship arrangements to have an adult who resides with them sign the minor's application and assume responsibility in accordance with subsection (1) of this section;
 - (b) Individuals who have signed for responsibility under subsection (1) of this section to rescind that assumption of responsibility;
 - (c) Notifying minors when an adult has rescinded responsibility under subsection (1) of this section; and
 - (d) Allowing minors for whom an adult has rescinded responsibility under subsection (1) of this section, to obtain a new signature of an individual assuming responsibility without having to retake any examinations the minor has successfully passed.
- ➔Section 5. KRS 186.416 is amended to read as follows:
- (1) If a resident of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the resident, or the resident's spouse or dependents, may:
 - (a) ***Update his or her license electronically or by mail to include a motorcycle operator's endorsement on an existing operator's license; or***
 - (b) Renew a Class D operator's license issued under this section by mail. If the resident, or his or her spouse or dependents, was issued an "under 21" operator's license, upon the date of the license holder's twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."
 - (2) A resident of the Commonwealth renewing an operator's license by mail under subsection (1) of this section may have a personal designee apply to the cabinet on behalf of the resident to renew the resident's operator's

license. An operator's license *for which an endorsement is being added electronically or by mail, or which is being renewed by mail* under subsection (1) of this section shall be issued a license bearing the applicant's historical photo if there is a photo on file. If there is no photo on file, the license shall be issued without a photograph and shall show in the space provided for the photograph the legend "valid without photo and signature."

- (3) (a) 1. If a resident of the Commonwealth has been serving in the United States military stationed or assigned to a base or other location outside the boundaries of the Commonwealth and has allowed his or her operator's license to expire, he or she shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his or her license without having to take a written test or road test.
2. The spouse or dependent of a person identified in subparagraph 1. of this paragraph shall be afforded the same consideration identified in that subparagraph regarding the renewal of an expired operator's license.
- (b) A person who meets the criteria in paragraph (a) of this subsection shall not be convicted or cited for driving on an expired license prior to license renewal during the ninety (90) days after the person's return to the Commonwealth if the person can provide proof of his or her out-of-state service and dates of assignment.
- (c) A person who meets the criteria in paragraph (a) of this subsection and who does not renew his or her license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired.
- (d) If a resident of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his or her twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.
- (4) (a) Any person who served in the active Armed Forces of the United States, including the Coast Guard, and any member of the National Guard or Reserve Component who completed the member's term of service and was released, separated, discharged, or retired therefrom under either an honorable discharge or a general under honorable conditions discharge may, at the time of initial application or application for renewal or duplicate, request that an operator's license or a personal identification card issued under this chapter bear the word "veteran" on the face or the back of the license or personal identification card.
- (b) The designation shall be in a style and format considered appropriate by the Transportation Cabinet. Prior to obtaining a designation requested under this subsection, the applicant shall present to the cabinet as proof of eligibility, an original or copy of his or her:
 1. Unexpired Veteran Identification Card or Veteran Health Identification Card issued by the United States Department of Veterans Affairs;
 2. DD-2, DD-214, DD-256, DD-257, or NGB-22 form; or
 3. Unexpired Geneva Conventions Identification Card issued by the United States Department of Defense.

The cabinet shall not be liable for fraudulent or misread forms presented.

- (5) *The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish forms and procedures for facilitating the addition of a motorcycle endorsement to an existing operator's license, both electronically and by mail, in accordance with subsection (1) of this section.*

Signed by Governor March 17, 2023.

CHAPTER 18

(SJR 79)

A JOINT RESOLUTION establishing the Nuclear Energy Development Working Group.

WHEREAS, with the passage of Senate Bill 11 in 2017, the General Assembly lifted the moratorium on the construction of new nuclear power facilities in the Commonwealth that had been in place for decades; and

WHEREAS, because of the long-standing moratorium on the construction of new nuclear power facilities, there are currently no nuclear power generating facilities in Kentucky, and the Commonwealth has fallen behind neighboring states, including Illinois, Tennessee, and Virginia, in the development and deployment of nuclear power generation resources; and

WHEREAS, promising new nuclear technologies, including small modular reactors, may make the deployment of nuclear power generation resources in the Commonwealth less expensive and more reliable than ever before; and

WHEREAS, nuclear power could be a part of the Commonwealth's all-of-the-above energy approach, and the addition of nuclear power to Kentucky's electricity generation portfolio could result in more resilient, reliable, and affordable electric service in the Commonwealth; and

WHEREAS, Kentucky also recognizes the potential benefits of the broader nuclear economy in terms of supporting existing manufacturing sectors, economic growth, job creation, energy security, and science, technology, engineering, and mathematics (STEM) education; and

WHEREAS, it is necessary to convene a working group of state officials and representatives of the utility and nuclear industries to advise the General Assembly on the establishment of a permanent nuclear energy commission in state government to provide for the education, coordination of resources, and professional expertise necessary to foster the development of the nuclear power industry in the Commonwealth;

NOW, THEREFORE,

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

➔Section 1. (1) The Nuclear Energy Development Working Group is hereby established and shall be attached to the Energy and Environment Cabinet for administrative purposes and staff support.

(2) The Nuclear Energy Development Working Group shall have the following twenty-three members or their designees, four of whom shall be ex officio nonvoting members:

- (a) The executive director of the Office of Energy Policy, who shall serve as chair;
- (b) The executive director of the Public Service Commission;
- (c) The director of the University of Kentucky Center for Applied Energy Research;
- (d) A representative from each of the four investor-owned electric utilities operating in the Commonwealth, to be designated by the president of each investor-owned electric utility;
- (e) The chief operating officer of the Kentucky Association of Electric Cooperatives;
- (f) The executive director of the Kentucky Municipal Utilities Association;
- (g) The executive director of Kentucky Industrial Utility Customers;
- (h) The chief nuclear officer of the Tennessee Valley Authority;
- (i) The executive director of the United States Nuclear Industry Council;
- (j) The executive director of the Kentucky Conservation Committee;
- (k) A representative from a national nuclear educational nonprofit organization;
- (l) A representative from a United States Department of Energy National Laboratory with expertise in nuclear energy policy issues;
- (m) The director of business services for the Four Rivers Nuclear Partnership;
- (n) A representative from each of the two cooperative electric generation and transmission utilities operating in the Commonwealth, to be designated by the president of each cooperative electric generation and transmission utility;
- (o) A representative of the Nuclear Energy Institute, to be designated by the president of the Nuclear Energy Institute;

(p) Two members of the Senate, who shall serve as ex officio nonvoting members and who shall be designated by the President of the Senate; and

(q) Two members of the House of Representatives, who shall serve as ex officio nonvoting members and who shall be designated by the Speaker of the House of Representatives.

(3) The first meeting of the Nuclear Energy Development Working Group shall be no later than September 1, 2023, and the working group shall meet at least three times prior to the submission of the report required under subsection (5) of this section.

(4) The Nuclear Energy Development Working Group shall:

(a) Identify the barriers in place to the deployment of nuclear power generation resources and other related technologies in the Commonwealth, including but not limited to regulatory, statutory, financial, social, environmental, workforce, and educational barriers that may exist;

(b) Develop recommendations for how a permanent nuclear energy commission could address the barriers to the deployment of nuclear power generation resources and other related technologies in the Commonwealth;

(c) Consult with any federal, state, or local agencies, nonprofit organizations, private industry, or other impacted stakeholders on what the role of the permanent nuclear energy commission should be; and

(d) Develop recommendations for the report required under subsection (5) of this section.

(5) The Nuclear Energy Development Working Group shall submit a report to the Governor and to the Legislative Research Commission on or before December 1, 2023, detailing all working group activity since its establishment and providing recommendations for the creation of a permanent nuclear energy commission in state government, including recommendations regarding the placement of the commission in the organization of state government, the staffing needs of the commission, the mission statement and the short-term and long-term goals of the commission, and the role the commission can play in fostering the development of the nuclear power industry in the Commonwealth.

Signed by Governor March 17, 2023.

CHAPTER 19

(HB 210)

AN ACT relating to the Kentucky Insurance Guaranty Association Act.

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

➔Section 1. KRS 304.36-030 is amended to read as follows:

(1) *As used in this section, "ocean marine insurance" includes:*

(a) *Any form of insurance, regardless of name, label, or marketing designation of the insurance policy, that insures against maritime perils or risks and other related perils or risks that are usually insured against by traditional marine insurance, such as hull and machinery, marine builders risk, and marine protection and indemnity. These perils and risks insured against include without limitation loss, damage, or expense or legal liability of the insured for loss, damage, or expense arising out of or incident to ownership, operation, chartering, maintenance, use, repair, or construction of any vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, or death or for loss or damage to the property of the insured or another person; and*

(b) *That coverage written in accordance with the following:*

1. *The Jones Act, 46 U.S.C. sec. 30104;*
2. *The Longshore and Harbor Workers' Compensation Act, 33 U.S.C. sec. 901 et seq.; and*
3. *Any other similar federal statutory enactment or endorsement or policy affording protection and indemnity coverage.*

- (2) This subtitle shall apply to all kinds of direct insurance, except:
- (a) Life, annuity, health, or disability;
 - (b) Mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks;
 - (c) Credit insurance, vendors' single interest insurance, or collateral protection insurance or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor transaction;
 - (d) Insurance of warranties or service contracts, including insurance that provides for the repair, replacement, or service of goods or property, indemnification for repair, replacement, or service for the operational or structural failure of the goods or property due to a defect in materials, workmanship, or normal wear and tear, or ~~that provides~~ reimbursement for the liability incurred by the issuer of agreements or service contracts that provide these benefits;
 - (e) Title insurance;
 - (f) Ocean marine insurance;
 - (g) Any transaction or combination of transactions between a person, including affiliates of the person, and an insurer, including affiliates of the insurer, that involves the transfer of investment or credit risk and that is unaccompanied by transfer of insurance risk; or
 - (h) Any insurance provided, written, reinsured, or guaranteed by any government or governmental agencies.

(3)~~(2)~~ Notwithstanding subsection (2)~~(1)~~ of this section, this subtitle shall apply to health insurance *written by an insolvent insurer if the insurer was not a member of the Kentucky Life and Health Insurance Guaranty Association created under KRS 304.42-060 or a successor association on the date of the order of liquidation*~~where such insurance is written by a member of the Kentucky Insurance Guaranty Association~~.

➔Section 2. KRS 304.36-050 is amended to read as follows:

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

- (1) "Affiliate" means a person who directly or indirectly, through one (1) or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December 31 of the year immediately preceding the date that the insurer becomes an insolvent insurer;
- (2) "Association" means the Kentucky Insurance Guaranty Association created under KRS 304.36-060;
- (3) "Claimant" means any insured making a first-party claim or any person instituting a liability claim, *except*~~provided~~ that no person who is an affiliate of the insolvent insurer may be a claimant;

~~(4) "Commissioner" means the commissioner of the Department of Insurance of Kentucky;~~

- (4)~~(5)~~
- (a) "Control" means the possession, direct or indirect, of power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a loan contract or a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.
 - (b) Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of any other person. This presumption may be rebutted by a showing that control does not exist in fact;

(5)~~(6)~~ (a) "Covered claim":

- I. Means an unpaid claim, including *a claim*~~one~~ for unearned premiums, submitted by a claimant, which arises out,~~of and~~ is within the coverage, and is subject to the applicable limits of an insurance policy to which this subtitle applies issued by *a member*~~an~~ insurer, if the *member* insurer becomes an insolvent insurer after June 16, 1972, and:

a.~~I.~~ The claimant or insured is a resident of this state at the time of the insured event, *except*~~provided~~ that for entities other than an individual, the residence of a claimant, insured, or policyholder is the state in which its principal place of business is located at the time of the insured event; or

- b.~~[2-]~~ The claim is a first-party claim for damage to property with a permanent location in this state; *and*
2. *Includes the obligations assumed by an assuming insurer from a ceding insurer when the assuming insurer subsequently becomes an insolvent insurer if:*
- a. *At the time of the assuming insurer's insolvency, the ceding insurer is no longer admitted to transact business in this state; and*
- b. *Both the assuming insurer and the ceding insurer were member insurers at the time the assumption was made.*
- (b) *For purposes of paragraph (a) of this subsection, "issued by a member insurer" shall not include an insurance policy issued by a nonmember insurer and later allocated to, transferred to, assumed by, or otherwise made the sole responsibility of a member insurer under a state statute commonly known as a "Division" or an "Insurance Business Transfer" statute.*
- (c) "Covered claim" shall not include the following:
1. Any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise;
 2. Any amount sought as a return of premium under any retrospective rating plan or dividends plan;
 3. Legal expenses for policyholders who were not Kentucky residents on the date of the insured event;
 4. Legal expenses for policyholders who were Kentucky residents *on the date*~~[at the time]~~ of the insured event if the legal expenses exceed the association's statutory cap;
 5. Any first-party claim by an insured whose net worth exceeds ~~ten~~~~[twenty-five]~~ million dollars (~~\$10,000,000~~~~[\$25,000,000])~~ on December 31 of the year prior to the year in which the insurer becomes an insolvent insurer.~~[, provided that]~~ An *insured's*~~[insurer's]~~ net worth on that date shall be deemed to include the aggregate net worth of the insured and all of its subsidiaries as calculated on a consolidated basis;
 6. Any first-party claim by an insured that is an affiliate of an insolvent insurer;~~[or]~~
 7. Any amount awarded as punitive or exemplary damages;
 8. *An obligation incurred after the expiration date of the insurance policy;*
 9. *An obligation incurred after the insurance policy has been replaced by the insured, canceled at the insured's request, or canceled by the receiver or liquidator;*
 10. *An obligation to a state, other than Kentucky, or federal government; or*
 11. *Any claim for interest;*
- (6)~~[(7)]~~ "Insolvent insurer" means~~[-~~:
- (a) ~~—~~] an insurer:
- (a) *That was a member insurer*~~[Licensed to transact insurance in this state either]~~ at the time the policy was issued~~[or when the insured event occurred]~~; *and*
- (b) Against whom a final order of liquidation, with a finding of insolvency, has been entered by a court of competent jurisdiction in the *insurer's*~~[company's]~~ state of domicile~~[after June 16, 1972; and~~
- (c) ~~With respect to which no order, decree, or finding relating to the solvency of the insurer, whether preliminary or temporary in nature or otherwise has been issued by a court of competent jurisdiction or by any insurance commissioner, insurance office, or department or similar official or body before June 16, 1972, or which was in fact insolvent before June 16, 1972, and the de facto insolvency was known by the chief insurance regulatory official of the state of its domicile];~~
- (7) *"Insured event," in an occurrence policy and claims-made policy, means the act that gave rise to the claim;*
- (8) (a) "Member insurer" means~~[-~~:
- (a) ~~—~~] any person who:

1. Writes any kind of insurance to which this subtitle applies under KRS 304.36-030(2), including the exchange of reciprocal or inter-insurance contracts; and
 2. ~~[(b)] [Any person who]~~ Is licensed to transact insurance in this state.
- (b) **"Member insurer" shall not include a self-insurer.**
- (c) **As used in paragraph (b) of this subsection, "self-insurer":**
1. **Means a person that covers its liability through a qualified individual or group self-insurance program or any other formal program created for the specific purpose of covering liabilities typically covered by insurance; and**
 2. **Includes but is not limited to:**
 - a. **Liability self-insurance groups under Subtitle 48 of KRS Chapter 304;**
 - b. **Workers' compensation self-insured groups under Subtitle 50 of KRS Chapter 304; and**
 - c. **Self-insurers and self-insured groups under KRS Chapter 342.**
- (d) For purposes of determining a withdrawing member's assessment liability, an insurer shall cease to be a member insurer effective on the day following the termination or expiration of ~~its~~ ~~[his or her]~~ license to transact the kinds of insurance to which this subtitle applies, **except that** ~~[However,]~~ the insurer shall remain liable as a member insurer for any and all obligations, including obligations for assessments levied prior to the termination or expiration of the insurer's license and assessments levied after the termination or expiration, that relate to any insurer that became an insolvent insurer prior to the termination or expiration of the insurer's license; **and**
- (9) (a) "Net direct written premiums" means direct gross premiums written, or in the case of an insurer organized under KRS Chapter 299, assessments, membership fees, and policy fees levied and collected, in this state, less returns thereon and dividends paid or credited to policyholders on such direct business.
- (b) "Net direct written premiums" ~~shall~~ ~~[does]~~ not include premiums on contracts between insurers or reinsurers~~;~~
- ~~(10) "Ocean marine insurance" includes any form of insurance, regardless of name, label, or marketing designation of the insurance policy, that insures against maritime perils or risks and other related perils or risks, that are usually insured against by traditional marine insurance such as hull and machinery, marine builders risk, and marine protection and indemnity. These perils and risks insured against include without limitation loss, damage, or expense or legal liability of the insured for loss, damage, or expense arising out of or incident to ownership, operation, chartering, maintenance, use, repair, or construction of any vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, or death or for loss or damage to the property of the insured or another person. "Ocean marine insurance" includes that coverage written in accordance with the following:~~
- ~~(a) The Jones Act (46 U.S.C. sec. 688);~~
 - ~~(b) The Longshore and Harbor Workers' Compensation Act D (33 U.S.C. secs. 901 et seq.); or~~
 - ~~(c) Any other similar federal statutory enactment, or any endorsement or policy affording protection and indemnity coverage; and~~
- ~~(11) "Insured event," in an occurrence policy and claims made policy, means the act that gave rise to the claim.~~
- ➔ Section 3. KRS 304.36-080 is amended to read as follows:
- (1) The association shall:
- (a) **I.** Be obligated to the extent of the covered claims existing:
 - a. Prior to the order of liquidation and arising within thirty (30) days after the order of liquidation;~~;~~ ~~or~~
 - b. Before the policy expiration date if less than thirty (30) days after the order of liquidation;~~;~~ ~~or~~
 - c. Before the insured replaces the policy or on request, effects cancellation, if the insured does so within thirty (30) days of the order of liquidation.

2. The obligation shall be satisfied by paying to the claimant an amount as follows:
 - a.~~[1.]~~ The full amount of a covered claim for benefits arising from a workers' compensation insurance policy purchased to satisfy the requirements of KRS 342.340;
 - b.~~[2.]~~ An amount not exceeding ten thousand dollars (\$10,000) per policy for a covered claim for the return of unearned premium;
 - c. ***An amount not exceeding five hundred thousand dollars (\$500,000) per insured event for all covered claims resulting from that event for benefits arising from a cybersecurity insurance policy;*** or
 - d.~~[3.]~~ An amount not exceeding three hundred thousand dollars (\$300,000) per claimant for all other covered claims;
- (b)
 1. Not be obligated to pay a claimant an amount in excess of the obligation of the insolvent insurer under the policy or coverage from which the claim arises.
 2. Notwithstanding any other provisions of this subtitle, a covered claim shall not include:
 - a. A claim filed with the association after the earlier of:
 - i. Twelve (12) months after the date of the order of liquidation;~~[1.]~~ or
 - ii. The final date set by the court for the filing of claims against the liquidator or receiver of an insolvent insurer; ~~or [and shall not include]~~
 - b. Any claim filed with the association or a liquidator for protection afforded under the insured's policy for incurred but not reported losses.
 3. Any obligation of the association to defend an insured shall cease upon the association's payment or tender of an amount equal to the lesser of the association's covered claim obligation limit or the applicable policy limit.
 4. Notwithstanding any other provisions of this subtitle, except in the case of a claim for benefits under workers' compensation coverage, any obligation of the association to any and all persons shall cease when ten million dollars (\$10,000,000) shall have been paid in the aggregate by the association and any one (1) or more associations similar to the association of any other state or states or any ***property and casualty***~~[property/casualty]~~ security fund that obtains contributions from insurers on a preinsolvency basis to or on behalf of any insured and its affiliates on covered claims or allowed claims arising under the policy or policies of any one (1) insolvent insurer.
 5. For purposes of this ~~paragraph~~~~[section]~~, the term "***affiliates***~~[affiliate]~~" ~~means any~~~~[shall mean a]~~ person who directly or indirectly, through one (1) or more intermediaries, controls, is controlled by, or is under common control with another person.
 6. If the claimant has a covered claim or allowed claim against the association or any associations similar to the association or any property and casualty insurance security fund of another ~~state~~~~[states]~~, under the policy or policies of any one (1) insolvent insurer, the association may establish a plan to allocate amounts payable by the association in a manner as the association in its discretion deems equitable;
- (c)
 1. Be deemed the insurer to the extent of its obligation on the covered claims and to that extent shall have all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent, including, but not limited to, the right to pursue and retain salvage and subrogation recoverable on paid covered claim obligations.
 2. ***In the case of a covered claim involving obligations assumed by an assuming insurer from a ceding insurer, the association shall:***
 - a. ***Have the right to recover a deposit, bond, or other assets that may have been required to be posted by the ceding insurer to the extent of covered claim payments; and***
 - b. ***Be subrogated to any rights the ceding insurer's policyholders may have against the ceding insurer;***
- (d)
 1. Assess insurers amounts necessary to pay the obligations of the association under paragraph (a) of this subsection subsequent to an insolvency, the expenses of handling covered claims

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subsequent to an insolvency, ~~and~~ the cost of examinations under KRS 304.36-130, and other expenses authorized by this subtitle.

2. The assessments of each member insurer shall be in the proportion that the net direct written premiums of the member insurer for the calendar year preceding the assessment bears to the net direct written premiums of all member insurers for the calendar year preceding the assessment.
 3. Each member insurer shall be notified of the assessment not later than thirty (30) days before it is due.
 4. No member insurer may be assessed in any year an amount greater than two percent (2%) of that member insurer's net direct written premiums for the calendar year preceding the assessment.
 5. If the maximum assessment, together with the other assets of the association, does not provide in any one (1) year an amount sufficient to make all necessary payments, the funds available shall be prorated and the unpaid portion shall be paid as soon thereafter as funds become available.
 6. The association shall pay claims in any order which it may deem reasonable including the payment of claims as such are received from the claimants or in groups or categories of claims.
 7. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if:
 - a. The assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance; ~~and provided, however, that~~
 - b. During the period of deferment, no dividends ~~are~~ ~~shall be~~ paid **by the member insurer** to shareholders or policyholders.
 8. Deferred assessments shall be paid when **the payments** ~~such payment~~ will not reduce capital and surplus below required minimums, **and the** ~~Such~~ payments shall be refunded to those companies receiving larger assessments by virtue of **the** ~~such~~ deferment ~~,~~ or at the election of any such company, credited against future assessments.
 9. Each member insurer serving as a servicing facility may set off against any assessment authorized payments made on covered claims and expenses incurred in the payment of such claims by such member insurer;
 - (e) Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligation and deny all other claims;
 - (f) Notify such persons as the commissioner directs under KRS 304.36-100(2)(a);
 - (g)
 1. Handle claims through its employees or through one (1) or more insurers or other persons designated as servicing facilities.
 2. Designation of a servicing facility is subject to the approval of the commissioner, but **the** ~~such~~ designation may be declined by a member insurer; ~~and~~
 - (h) Reimburse each servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association; and
 - (i) ~~Shall~~ Pay the other expenses of the association authorized by this subtitle.
- (2) The association may:
- (a) Appear in, defend, and appeal any action on a claim brought against the association;
 - (b) Employ or retain such persons as are necessary to handle claims and perform other duties of the association;
 - (c) Borrow funds necessary to effect the purposes of this subtitle in accord with the plan of operation;
 - (d) Sue or be sued;
 - (e) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this subtitle;
 - (f) Perform such other acts as are necessary or proper to effectuate the purpose of this subtitle; and

- (g) Refund to the member insurers in proportion to the contribution of each member insurer to the association that amount by which the assets of the association exceed the liabilities, if, at the end of any calendar year, the board of directors finds that the assets of the association exceed the liabilities of the association as estimated by the board of directors for the coming year.

Signed by Governor March 17, 2023.

CHAPTER 20

(HB 444)

AN ACT relating to government agencies, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. General Fund moneys in the amount of \$89,320,800 from the General Fund appropriation of \$200,000,000 in fiscal year 2023-2024 set out in 2022 Ky. Acts ch. 199, Part I, N., 1. is hereby transferred as follows:

(1) \$65,351,800 to the State Salary and Compensation Fund budget unit within the Personnel Cabinet in fiscal year 2023-2024 for a six percent salary increase for state employees effective July 1, 2023. Notwithstanding KRS 18A.355, relating to anniversary date, and notwithstanding KRS 156.808(6)(e) and 163.032(1), a six percent salary increase is provided, effective July 1, 2023, on the base salary or wages of each eligible state employee. For these purposes, there is hereby appropriated Road Fund moneys in the amount of \$11,381,400 in fiscal year 2023-2024, Restricted Funds in the amount of \$18,029,800 in fiscal year 2023-2024, and Federal Funds in the amount of \$14,386,400 in fiscal year 2023-2024 to the State Salary and Compensation Fund budget unit within the Personnel Cabinet. The State Budget Director shall determine the necessary amount of funds from these appropriations, by budget unit. The State Budget Director shall notify the Secretary of the Finance and Administration Cabinet of the respective amounts from the Fund to transfer to each affected budget unit. The State Budget Director shall report to the Interim Joint Committee on Appropriations and Revenue on the implementation of this provision by December 1, 2023;

(2) \$500,000 in fiscal year 2023-2024 to the General Operations budget unit within the Personnel Cabinet to provide additional contractual resources to complete the job classification reviews. The job classification reviews shall be completed by November 1, 2023, and shall be reported to the Interim Joint Committee on Appropriations and Revenue;

(3) \$1,874,400 in fiscal year 2023-2024 to the Legislative Research Commission budget unit in the Legislative Branch for a six percent salary increase on the base salary and wages of each eligible employee effective July 1, 2023; and

(4) \$21,594,600 in fiscal year 2023-2024 to the Court Operations and Administration budget unit in the Judicial Branch to provide a \$2,000 salary increase followed by a six percent increase on the base salary and wages of each eligible employee effective July 1, 2023, for elected and non-elected personnel. For these purposes, there is hereby appropriated Restricted Funds in the amount of \$1,698,000 in fiscal year 2023-2024 and Federal Funds in the amount of \$137,800 in fiscal year 2023-2024.

➔Section 2. Whereas the operations of governmental agencies are imperative for the betterment of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 17, 2023.

CHAPTER 21

(HB 75)

AN ACT relating to hospital rate improvement programs and declaring an emergency.

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

➔ Section 1. KRS 205.6405 is amended to read as follows:

As used in KRS 205.6405 to 205.6408:

- (1) "Assessment" means the hospital assessment authorized by KRS 205.6406;
- (2) "Commissioner" means the commissioner of the Department for Medicaid Services;
- (3) "Department" means the Department for Medicaid Services;
- (4) "Excess disproportionate share taxes" means any excess provider tax revenues collected under KRS 142.303 that are not needed to fund the state share of hospital disproportionate share payments under KRS 205.640 due to federal disproportionate share allotments being reduced and limited to the portion of provider tax revenues collected under KRS 142.303 necessary to fund the state share of the difference between the unreduced disproportionate share allotment and the reduced disproportionate share allotment;
- (5) "Intergovernmental transfer" means any transfer of money by or on behalf of a public agency for purposes of qualifying funds for federal financial participation in accordance with 42 C.F.R. sec. 433.51;
- (6) "Long-term acute hospital" means an in-state hospital that is certified as a long-term care hospital under 42 U.S.C. sec. 1395ww(d)(1)(B)(iv);
- (7) "Managed care" means the provision of Medicaid benefits through managed care organizations under contract with the department pursuant to 42 C.F.R. sec. 438;
- (8) "Managed care gap" means:
 - (a) ***For hospital inpatient services, the difference between the maximum actuarially sound amount that can be included in managed care rates for hospital inpatient services provided by qualifying hospitals ~~and out of state hospitals~~ and the amount of total payments for hospital inpatient services provided by qualifying hospitals ~~and out of state hospitals~~ paid by managed care organizations. For purposes of the managed care gap, total payments shall ~~include only those supplemental payments made to a qualifying hospital and shall~~ exclude payments established under KRS 205.6405 to 205.6408; and***
 - (b) ***For hospital outpatient services, the difference between the maximum actuarially sound amount that can be included in managed care rates for hospital outpatient services provided by qualifying hospitals and the amount of total payments for hospital outpatient services provided by qualifying hospitals paid by managed care organizations. For purposes of the managed care gap, total payments shall exclude payments established under KRS 205.6405 to 205.6408;***
- (9) "Managed care organization" means an entity contracted with the department to provide Medicaid benefits pursuant to 42 C.F.R. sec. 438;
- (10) "Non-state government-owned hospital" means the same as non-state government-owned or operated facilities in 42 C.F.R. sec. 447.272 and represents one (1) group of hospitals for purposes of estimating the upper payment limit;
- (11) "University hospital" means a state university teaching hospital, owned or operated by either the University of Kentucky College of Medicine or the University of Louisville School of Medicine, including a hospital owned or operated by a related organization pursuant to 42 C.F.R. sec. 413.17;
- (12) "Pediatric teaching hospital" means the same as in KRS 205.565;
- (13) "Private hospitals" means the same as privately owned and operated facilities in 42 C.F.R. sec. 447.272 and represents one (1) group of hospitals for purposes of estimating the upper payment limit;
- (14) "Program year" means the state fiscal year during which an assessment is assessed and rate improvement payments are made;
- (15) "Psychiatric access hospital" means an in-state psychiatric hospital licensed under KRS Chapter 216B that:
 - (a) Is not located in a Metropolitan Statistical Area;
 - (b) Provides at least sixty-five thousand (65,000) days of inpatient care as reflected in the department's hospital rate data for state fiscal year 1998-1999;
 - (c) Provides at least twenty percent (20%) of inpatient care to Medicaid-eligible recipients as reflected in the department's hospital rate data for state fiscal year 1998-1999; and

- (d) Provides at least five thousand (5,000) days of inpatient psychiatric care to Medicaid recipients in a state fiscal year;
- (16) "Qualifying hospital" means a Medicaid-participating, in-state hospital licensed under KRS Chapter 216B, including a long-term acute hospital, but excluding a university hospital and a state mental hospital defined in KRS 205.639. The department may, but is not required to, exclude critical access hospitals **and rural emergency hospitals** from the definition of "qualifying hospital" for purposes of calculating the quarterly assessments. Notwithstanding the permission referenced in this subsection, or any other provision of the law to the contrary, the department may include critical access hospitals **and rural emergency hospitals** for purposes of calculating and paying the quarterly supplemental payments authorized in KRS 205.6406;
- (17) "Qualifying hospital disproportionate share percentage" means a percentage equal to the amount of hospital provider taxes paid pursuant to KRS 142.303 by qualifying hospitals in state fiscal year 2016-2017 divided by the amount of hospital provider taxes paid pursuant to KRS 142.303 by all hospitals in state fiscal year 2016-2017;
- (18) "University hospital disproportionate share percentage" means a percentage equal to the amount of hospital provider taxes paid pursuant to KRS 142.303 by university hospitals and state mental hospitals, as defined in KRS 205.639, in state fiscal year 2016-2017 divided by the amount of hospital provider taxes paid pursuant to KRS 142.303 by all hospitals in fiscal year 2016-2017;
- (19) "Upper payment limit" or "UPL" means the methodology permitted by federal regulation to achieve the maximum allowable amount on aggregate hospital Medicaid payments to non-state government-owned hospitals and private hospitals under 42 C.F.R. sec. 447.272. A separate UPL shall be estimated for non-state government-owned hospitals and private hospitals; and
- (20) "UPL gap" means the difference between the UPL and amount of total fee-for-service payments paid by the department for hospital inpatient services provided by non-state government-owned hospitals and private hospitals to Medicaid beneficiaries and excluding payments established under KRS 205.6405 to 205.6408. A separate UPL gap shall be estimated for the non-state government-owned hospitals and private hospitals.

➔ Section 2. KRS 205.6406 is amended to read as follows:

- (1) To the extent allowable under federal law, the department shall develop the following programs to increase Medicaid reimbursement for inpatient **and outpatient** hospital services provided by a qualifying hospital to Medicaid recipients:
- (a) A program to increase inpatient reimbursement to qualifying hospitals within the Medicaid fee-for-service program in an aggregate amount equivalent to the UPL gap;~~and~~
- (b) A program to increase inpatient reimbursement to qualifying hospitals within the Medicaid managed care program in an aggregate amount equivalent to the managed care gap **for inpatient services; and**
- (c) **A program to increase outpatient reimbursement to qualifying hospitals within the Medicaid managed care program in an aggregate amount equivalent to the managed care gap for outpatient services.**
- (2) On an annual basis prior to the start of each program year, the department shall determine:
- (a) The maximum allowable UPL for inpatient services provided in the Kentucky Medicaid fee-for-service program;
- (b) The fee-for-service UPL gap for applicable ownership groups;
- (c) A per discharge uniform add-on amount to be applied to Medicaid fee-for-service discharges at qualifying hospitals for that program year, determined by dividing the UPL gap for the applicable ownership group by total fee-for-service hospital inpatient discharges at qualifying hospitals in the data used to calculate the UPL gap. Claims for discharges that already receive an enhanced rate at qualifying hospitals that also are classified as a pediatric teaching hospital or as a psychiatric access hospital shall be excluded from the calculation of the per discharge uniform add-on, unless the department is required to include these claims to obtain federal approval;
- (d) The maximum managed care gap for inpatient services;~~and~~
- (e) A per discharge uniform add-on amount to be applied to Medicaid managed care discharges at qualifying hospitals for that program year in an amount that is calculated by dividing the managed care gap **for inpatient services** by total managed care in-state qualifying hospital inpatient discharges in the

data used to calculate the managed care gap. Claims for discharges that already receive an enhanced rate at qualifying hospitals that also are classified as a pediatric teaching hospital or as a psychiatric access hospital shall be excluded from the calculation of the per discharge uniform add-on, unless the department is required to include these claims to obtain federal approval;

- (f) *The maximum managed care gap for outpatient services; and*
- (g) *A uniform add-on amount to be paid to each qualifying hospital to supplement Medicaid managed care payments for outpatient services performed by the qualifying hospital in a program year. The uniform add-on amount payable to each qualifying hospital shall be:*
 - 1. *A uniform percentage increase calculated by dividing the managed care gap for outpatient services by the total payments from managed care to in-state qualifying hospitals for outpatient services taken from the data used to calculate the managed care gap for outpatient services unless a different method for calculating the uniform add-on amount is required by the Centers for Medicare and Medicaid Services; and*
 - 2. *Made as a lump-sum payment to each qualifying hospital on a quarterly basis unless a different method for paying qualifying hospitals the uniform add-on amount is required by the Centers for Medicare and Medicaid Services.*

At least thirty (30) days prior to the beginning of each program year, the department shall provide each qualifying hospital the opportunity to verify the base data to be utilized in both the fee-for-service and managed care gap calculations *for both inpatient and outpatient services*, with data sources and methodologies identified.

- (3) On a quarterly basis in the program year, the department shall:
 - (a) Calculate a fee-for-service quarterly supplemental payment for each qualifying hospital using fee-for-service claims for inpatient discharges paid in the quarter to the qualifying hospital multiplied by the uniform add-on amount determined in subsection (2)(c) of this section;
 - (b) Calculate a managed care quarterly supplemental payment for each qualifying hospital to be paid by each managed care organization using managed care encounter claims for inpatient discharges received in the quarter multiplied by the uniform add-on amount determined in subsection (2)(e) of this section;
 - (c) *Calculate a managed care quarterly supplemental payment for each qualifying hospital to be paid by each managed care organization as determined in subsection (2)(g) of this section;*
 - (d) Make the quarterly supplemental payment calculated under paragraph (a) of this subsection;
 - ~~(e)(d)~~ Provide each managed care organization with a listing of the supplemental payments *as calculated under paragraphs (b) and (c) of this subsection* to be paid by each managed care organization to each qualifying hospital *for both inpatient and outpatient services*;
 - ~~(f)(e)~~ Provide each managed care organization with a supplemental capitation payment to cover the managed care organization's quarterly supplemental payments to be paid to qualifying hospitals *for both inpatient and outpatient services* in the quarter;
 - ~~(g)(f)~~ Determine the amount of state funds necessary to obtain federal matching funds that ~~in the aggregate,~~ equal the total quarterly supplemental payments to be paid to all qualifying hospitals in both the fee-for-service and the Medicaid managed care programs *authorized by this section*;
 - ~~(h)(g)~~ *For purposes of the inpatient program authorized by subsection (1)(b) of this section,* determine a per discharge hospital *inpatient* assessment for the quarter for each qualifying hospital, which shall be calculated by first applying towards the state share ~~determined~~~~calculated~~ under paragraph ~~(g)(f)~~ of this subsection the qualifying hospital disproportionate share percentage of the excess disproportionate share taxes and then dividing the remaining state share by the total discharges reported by all in-state qualifying hospitals on the Medicare cost report filed by those qualifying hospitals in the calendar year two (2) years prior to the program year;
 - ~~(i)(h)~~ Determine each qualifying hospital's quarterly *inpatient* assessment by multiplying the assessment established in paragraph ~~(h)(g)~~ of this subsection by the hospital's total discharges from the qualifying hospital's Medicare cost report filed in the calendar year two (2) years prior to the program year;~~and~~

- ~~(j)(4)~~ *For purposes of the outpatient program authorized by subsection (1)(c) of this section, determine each qualifying hospital's assessment to be contributed to the state's share of this outpatient program as calculated under paragraph (g) of this subsection. Each qualifying hospital's outpatient assessment shall be a percentage of the state share calculated as the qualifying hospital's total outpatient net revenue divided by the total outpatient net revenue of all qualifying hospitals on the Medicare cost reports filed in the calendar year two (2) years prior to the program year;*
- (k) *Determine each qualifying hospital's quarterly outpatient assessment by multiplying the outpatient portion of the assessment established in paragraph (g) of this subsection by the hospital's percentage established in paragraph (j) of this subsection; and*
- (l) Provide each qualifying hospital with a notice sent on the same day as the distribution to managed care organizations of the supplemental capitation payments pursuant to paragraph ~~(f)(e)~~ of this subsection, of the qualifying hospital's quarterly assessment, that shall state the total amount due from the assessment, the date ~~assessment~~~~payment~~ is due, the total number of *inpatient* paid claims **and total outpatient payments**~~for inpatient discharges~~ used to calculate the qualifying hospital's quarterly supplemental ~~distribution~~~~payments~~, and the amount of quarterly supplemental **distribution** payments **for inpatient and outpatient services** due to be received by the qualifying hospital from the department and each Medicaid managed care organization.
- (4) In calculating the quarterly supplemental payments under subsection (3)(a), **(b)**, and ~~(c)(b)~~ of this section for qualifying hospitals that are also classified as a pediatric teaching hospital or as a psychiatric access hospital, no add-on shall be applied to the paid claims for the services for which that hospital also receives supplemental payments pursuant to state plan methodologies and managed care contracts in effect on January 1, 2019.
- (5) Each qualifying hospital shall receive four (4) quarterly supplemental payments in the program year, as determined under subsection (3) of this section.
- (6) Medicaid managed care organizations shall pay the supplemental payments to qualifying hospitals within five (5) business days of receiving the supplemental capitation payment from the department.
- (7) A qualifying hospital shall pay its quarterly assessment no later than fifteen (15) days from the date the qualifying hospital is notified of the assessment from the department. A non-state government-owned hospital may make payment of its assessment through an intergovernmental transfer. The department may delay or withhold a portion of the supplemental payment if a hospital is delinquent in its payment of a quarterly assessment.
- (8) The department shall complete the actions required under subsection (3) of this section expeditiously and within the same quarter as all required information is received.
- (9) Qualifying hospitals may notify the department of errors in the data used to make a quarterly supplemental payment by providing documentation within thirty (30) days of receipt of a quarterly supplemental payment from a Medicaid managed care organization. If the department agrees that an error occurred in a qualifying hospital's quarterly supplemental payment, the department shall reconcile the payment error through an adjustment in the qualifying hospital's next quarterly supplemental payment.
- (10) The programs in this section shall not be implemented if federal financial participation is not available or if the provider tax waiver is not approved. A qualifying hospital shall have no obligation to pay an assessment if any federal agency determines that federal financial participation is not available for any assessment. Any assessments received by the department that cannot be matched with federal funds shall be returned pro rata to the qualified hospitals that paid the assessments.
- (11) The department may implement the hospital rate improvement programs only if Medicaid state plan amendments required for federal financial participation are approved by the United States Centers for Medicare and Medicaid Services.
- (12) The assessment authorized under KRS 205.6405 to 205.6408 shall be restricted for use to accomplish the inpatient **and outpatient** reimbursement increases established under this section. The Commonwealth shall not maintain or revert funds received under KRS 205.6405 to 205.6408 to the state general fund, except that the department may receive two hundred fifty thousand dollars (\$250,000) in state funds each program year to administer the programs. The department shall not establish Medicaid fee-for-service rate-setting methodology changes that result in rate reductions from policies in effect as of October 1, 2018, for acute care hospitals and July 1, 2019, for hospitals paid on a per diem basis.

- (13) The department shall promulgate administrative regulations to implement the provisions of KRS 205.6405 to 205.6408.
- (14) If the department submits, and the United States Centers for Medicare and Medicaid Services (CMS) approves, a supplemental payment formula that permits the managed care gap to be calculated based upon a percentage of average commercial rates (ACR) that results in a total annual supplemental payment greater than eighty percent (80%) of ACR *for both inpatient and outpatient services*, instead of the Medicare upper payment limit, then the hospital rate improvement programs *for qualifying hospitals* shall be modified as follows:
- (a) The amount of funds the department may receive to administer the programs as stated in subsection (12) of this section shall be replaced by an administrative fee that shall be calculated to be an amount equal to four percent (4%) of the assessment collected under this section. The administrative fee payable under this paragraph shall accrue only for supplemental payments attributable to state fiscal year 2021-2022 and for state fiscal years thereafter so long as CMS approves the supplemental payment formula in accordance with this subsection. The administrative fee shall be paid within thirty (30) days after supplemental payments *for inpatient and outpatient services* are issued to qualifying hospitals; and
 - (b) The department shall not be required under KRS 205.6408 to transfer any excess disproportionate share taxes to the hospital Medicaid assessment fund for use as state matching dollars for the payments made under this section.
- (15) *To the extent federal matching funds are available, the department may create a program to increase outpatient reimbursement to qualifying hospitals within the Medicaid fee-for-service program in an aggregate amount equivalent to the UPL gap.*

➔Section 3. If the Cabinet for Health and Family Services or the Department for Medicaid Services determines that a state plan amendment, waiver, or any other authorization from a federal agency is necessary prior to the implementation of any provision of Section 2 of this Act, the cabinet or department shall, within 90 days after the effective date of this Act, request the state plan amendment, waiver, or authorization and shall only delay full implementation of those provisions for which a waiver or authorization was deemed necessary until the waiver or authorization is granted.

➔Section 4. Notwithstanding any other statute to the contrary, the amendments to Sections 1 and 2 of this Act shall be retroactive to January 1, 2023.

➔Section 5. Whereas hospitals are severely stressed by the shortage of health care providers, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 20, 2023.

CHAPTER 22

(SB 213)

AN ACT relating to biosolids.

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

➔SECTION 1. A NEW SECTION OF SUBCHAPTER 50 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "biosolids" means nutrient-rich, organic, residual material that results from the treatment of domestic sewage or sewage sludge in a treatment facility and can be recycled and applied as a fertilizer to improve and maintain productive soils.*
- (2) *Notwithstanding any provision of law to the contrary, when biosolids are generated from wastewater treatment at a publicly owned treatment works, the biosolids shall be:*
 - (a) *Designated a special waste; and*

(b) Regulated in conformance with the most recent version of 40 C.F.R. pt. 503.

- (3) Within sixty (60) days of the effective date of this Act, the cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that are in conformance with 40 C.F.R. pt. 503, regarding siting criteria and permitting conditions necessary to regulate the disposal of biosolids.*

Signed by Governor March 20, 2023.

CHAPTER 23

(SB 120)

AN ACT relating to residential communities.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 17 of this Act:

- (1) "Assessment" means the liability for an expense that is allocated to a lot in a planned community in accordance with governing documents;*
- (2) "Association" means a nonprofit corporation or unincorporated organization that is composed of lot owners in a planned community that is responsible for the administrative governance, maintenance, and upkeep of the planned community;*
- (3) "Board" means the executive body of an association, regardless of name, designated in the declaration or bylaws to act on behalf of an association;*
- (4) "Bylaws" means a document adopted by the association for the regulation or management of the affairs of the association;*
- (5) "Common area" means property, including any facilities and amenities, within a planned community that is designated as a public space and is owned, leased, or required by the declaration to be maintained or operated by an association;*
- (6) "Declarant" means any person or entity, and their successors and assigns, that:*
 - (a) Executes and files a declaration encumbering real property; or*
 - (b) Authorizes real property to be governed by a declaration, as part of the establishment or maintenance of a planned community;*
- (7) "Declarant control period" means the period of time in which the declarant controls the association by appointing or removing the members of the association's board of directors and manages the association;*
- (8) "Declaration" means any instrument, however denominated, including but not limited to covenants, conditions, or restrictions, and any amendment or supplement thereto, recorded among the land records of the county or counties in which a planned community or any part thereof is located, that either:*
 - (a) Imposes restrictions, covenants, conditions, or maintenance or operational responsibilities for any common area on an association; or*
 - (b) Conveys the authority of an association to impose on lots, or on the lot owners or occupants, or on any other entity, an assessment in connection with the provision of maintenance or services for the benefit of some or all of the lots or the common area;*
- (9) "Governing documents" means the articles of incorporation, bylaws, plat, declaration of covenants, conditions and restrictions, rules, regulations, policies, and guidelines of an association, or other written instrument granting the association the authority to manage, maintain, or otherwise affect the property under its jurisdiction;*

- (10) *"Lot" means any plot or parcel of real property designated for separate ownership or occupancy and is either shown on a recorded subdivision plat for a planned community or the boundaries are described in the declaration;*
- (11) *"Owner" means a declarant or other person who owns a lot in a planned community but does not include any person that has an interest in a lot solely as security for an obligation;*
- (12) *"Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, limited liability company, government, governmental subdivision or agency, or other legal or commercial entity;*
- (13) (a) *"Planned community" means a group of residential dwellings, excluding condominiums, composed of individual lots for which a deed, common plan, or declaration requires that:*
1. *All owners become members of an association;*
 2. *Owners or the association hold or lease property or facilities for the benefit of all owners; or*
 3. *Owners support by membership fees or property or facilities for all owners to use;*
- (b) *"Planned communities" shall not include:*
1. *Any deed, subdivision plat or plan, or declaration which is recorded whereby the sole common facility for sharing maintenance expenses is for shared or common roadways providing access to multiple lots; or*
 2. *A current development or neighborhood that does not currently have a homeowners association established by declaration, subdivision plat, or deed;*
- (14) *"Purchaser" means a person who acquires a legal or equitable interest in a lot by voluntary or involuntary transfer. A purchaser shall not be a declarant or a person in the business of selling real estate for profit;*
- (15) *"Real estate" includes lands together with improvements thereon and appurtenances thereto; and*
- (16) *"Residential dwelling" means a building or portion of a building that is designed and intended for use and occupancy by a single household and not for business purposes, and which may share common walls, roofing, or other common structural elements.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding subsection (3) of this section, all planned communities in this Commonwealth are subject to the provisions of Sections 1 to 17 of this Act. Unless specifically stated, nothing in Sections 1 to 17 of this Act shall invalidate any provision of a document that governs a planned community if that provision was in the document at the time the document was recorded and the document was adopted or recorded prior to the effective date of this Act.*
- (2) *After the effective date of this Act, no person shall establish a planned community unless the person files and records a declaration for that planned community in the office of the county clerk of the county or counties in which the planned community is located.*
- (3) *The provisions of Sections 1 to 17 of this Act shall not apply to current developments or neighborhoods that do not have a homeowners' association that meet the definition of a planned community in Section 1 of this Act. Subsection (2) of this section shall only apply to homeowners' associations or planned communities formed after the effective date of this Act.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

- (1) *A declarant shall establish an association no later than the date upon which the first lot in the planned community is conveyed to a purchaser for fair market value. The association shall be organized as a nonprofit corporation pursuant to KRS Chapter 273 or as an unincorporated nonprofit association pursuant to KRS Chapter 273A.*
- (2) *The association shall consist of members who own a lot or lots in the planned community. The association shall be administered by a board of directors elected from among the owners. The owners shall elect a board with at least three (3) directors who shall take office upon election no later than the termination of any declarant control period.*
- (3) *Unless otherwise provided in the governing documents, the board of directors shall be authorized to carry out the provisions of Sections 1 to 17 of this Act. If an owner is not a natural person, a principal member of*

a limited liability company, partner, director, officer, trustee, or employee of the owner may be elected to the board of directors.

- (4) *The initial board of directors shall promulgate the initial bylaws of the association.*
- (5) *Subject to other provisions of Sections 1 to 17 in this Act, the declaration or bylaws for an incorporated or unincorporated association shall provide for the following:*
 - (a) *The number of persons constituting the board;*
 - (b) *The election method and terms of the board;*
 - (c) *The powers and duties of the board;*
 - (d) *The method of removal of directors from the board;*
 - (e) *The method of amending the declaration and bylaws;*
 - (f) *The frequency, time, and place for holding board meetings and the manner of and authority for calling, giving notice of, and conducting board meetings; and*
 - (g) *Any other matters the declarant or the association deems necessary and appropriate.*
- (6) *Unless a higher percentage of votes is required under the declaration or bylaws, the owners may remove any member of the board with or without cause, except a director appointed by the declarant, by a majority vote of all persons present in person or by proxy and entitled to vote at any meeting of the association at which a quorum is present.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

- (1) *A declaration shall provide a declarant control period and specify the time and manner in which the declarant control period ends.*
- (2) *A declarant may surrender the right to appoint and remove officers and directors of the board and relinquish management and control of the association before termination of a declarant control period.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

Upon reasonable notice, an owner shall permit agents or employees of the association access to the owner's lot for the purpose of fulfilling the association's duties and obligations. Any damage to the common areas, lots, or residential dwellings due to the granted access is the responsibility of the association or its agent. The association is liable for the prompt repair of that damage.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

- (1) *Unless otherwise provided in the declaration or bylaws, an association, through its board, shall:*
 - (a) *Annually adopt and amend a budget for revenues and expenditures. The budget may include reserves to fund the future repair and replacement of capital goods in the normal course of operations; and*
 - (b) *Collect assessments for common expenses from the owners in accordance with Section 13 of this Act.*
- (2) *Unless provided otherwise in the declaration, an association formed after the effective date of this Act shall obtain and maintain insurance coverage no later than the first conveyance of a lot as follows:*
 - (a) *Property insurance on the common areas insured for replacement cost;*
 - (b) *Liability insurance for the common areas; and*
 - (c) *Other insurance as required by the declaration or bylaws.*
- (3) *An association shall keep:*
 - (a) *A complete set of financial records in accordance with Section 10 of this Act;*
 - (b) *Records showing the payment for common expenses and other charges received from the owners;*
 - (c) *Records detailing and supporting the payment for common expenses and other charges paid to contractors, suppliers, and service providers;*
 - (d) *Meeting minutes for the association and the board; and*

- (e) *Records of the names and mailing addresses of the owners. The owners shall maintain their current mailing address and contact information with the secretary of the association.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

- (1) *Unless otherwise specified in the declaration, the owners may amend the declaration by consent of eighty percent (80%) of the owners of all lots in the planned community either in writing or in a special meeting called for that purpose. Except for any declaration that was created after the effective date of this Act, this subsection shall not apply to amending the declaration when it is silent as to how an amendment is to occur. No amendment to the declaration shall be effective until filed with the county clerk.*
- (2) *Unless otherwise specified in the declaration, the owners may terminate the declaration and the association by the written consent of not less than eighty percent (80%) of the owners of all lots in the planned community. Except for any declaration that was created after the effective date of this Act, this subsection shall not apply to terminating the declaration when it is silent as to how a termination is to occur. No termination shall be effective until filed with the county clerk.*
- (3) *Unless otherwise specified in the declaration, the owners may amend the bylaws by consent of a majority of the owners of all lots in the planned community either in writing or in a special meeting called for that purpose.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

In an association's declaration or bylaws, an association shall include the following:

- (1) *An annual meeting of the association shall be held at least once per year. A quorum for an association meeting is ten percent (10%) of the lot owners;*
- (2) *Special meetings of the association may be called by the president, a majority of the board, or by written request of twenty percent (20%) of the owners or any lower percentage specified in the declaration or bylaws. Upon receipt of a written request of the owners for a special meeting, the secretary shall convene the special meeting within thirty (30) days of receipt of a written request;*
- (3) *Notice of meetings of the association shall be given to owners no less than ten (10) days nor more than thirty (30) days in advance of any meeting. The secretary or other officer specified in the bylaws shall send notice by United States mail to the mailing address of record for each owner, or hand-delivered, or electronically delivered to each owner. The notice of any meeting shall state the time and place of the meeting and the items on the agenda; and*
- (4) *A quorum is deemed present throughout any meeting of the association if persons entitled to cast ten percent (10%) of the total lots which may be cast are in person or by proxy at the beginning of the meeting, subject to the following provisions:*
 - (a) *Votes allocated to a lot may be cast in person, or pursuant to proxy duly executed by a lot owner. A proxy terminates one (1) year after its signed date, unless it specifies a shorter term;*
 - (b) *Each lot shall have one (1) vote, and cumulative voting shall not be allowed. The declaration or bylaws may provide for the option of electronic voting or voting by mail; and*
 - (c) *The actions approved by a majority of the votes cast at an association meeting shall constitute the actions of the owners, except when approval by a greater number of owners is required by the declaration or bylaws.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

- (1) *Unless the bylaws specify a larger percentage, a quorum of a board is established if fifty-one percent (51%) of the directors are present at the beginning of the meeting.*
- (2) *Unless otherwise specified in the bylaws, board meetings shall be open to the owners except during executive sessions.*
- (3) *A board director of an unincorporated association shall discharge his or her duties as an officer or member of the board or as a member of a committee in accordance with the standards set forth in KRS 273.215 and 273.229.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

- (1) *An association shall keep financial records sufficiently detailed to enable the association to prepare financial statements in accordance with generally accepted accounting principles.*
- (2) *No later than one hundred eighty (180) days after the end of the fiscal year, or annually on a date provided in the declaration or bylaws, the association shall have a financial report prepared for the preceding fiscal year. No later than thirty (30) days after the financial report is prepared and received by the board, the association shall make the financial report available electronically at no charge or provide a paper copy with payment of a reasonable fee to a lot owner.*
- (3) *The financial report shall be prepared in accordance with the following standards:*
 - (a) *An association with total annual revenues of less than one hundred twenty-five thousand dollars (\$125,000) shall prepare a statement of cash receipts and disbursements that disclose all sources of income and expenses by account and classification;*
 - (b) *An association with total annual revenues of at least one hundred twenty-five thousand dollars (\$125,000) but less than three hundred thousand dollars (\$300,000) shall prepare a financial report under the standards of a compilation by an accounting professional;*
 - (c) *An association with total annual revenues of at least three hundred thousand dollars (\$300,000) but less than one million dollars (\$1,000,000) shall prepare a financial report under the standards of review, to be prepared by a certified public accountant; and*
 - (d) *An association with total annual revenues of one million dollars (\$1,000,000) or greater shall have prepared a financial report under the standards of an audit prepared by a certified public accountant.*

An association may elect to have the financial report required under this subsection prepared in accordance with a higher standard than required for the association's annual revenue level.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (2) of this section, an owner may examine and copy the books, records, and minutes of the association pursuant to reasonable standards set forth in the declaration, bylaws, or other rules and regulations promulgated by the board, including standards governing the type of documents to be examined and copies and the time and location at which the documents may be examined, including a reasonable fee for copying documents.*
- (2) *Unless approved by the board, an owner may not examine or copy from books, records, or minutes of the association:*
 - (a) *Information that pertains to personnel matters of the association;*
 - (b) *Communications with legal counsel or attorney work product pertaining to potential, threatened, or pending litigation or other property-related matters;*
 - (c) *Information that pertains to contracts or transactions under negotiation, or information that is contained in a contract or other agreement containing confidentiality requirements;*
 - (d) *Information that relates to the collection of assessments or listing of past-due owner names, lot numbers, plat numbers, lot addresses, or street addresses; or*
 - (e) *Information the disclosure of which is prohibited by state or federal law.*

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

In addition to the provisions of the declaration, bylaws, rules, or regulations of the association:

- (1) *Common expenses shall include all costs incurred in the administration, governance, and maintenance of an association, including but not limited to insurance premiums and expenses, maintenance and repair expenses, and any reserves for replacement of the common areas.*
- (2) *The common expense liability of each lot shall be allocated equally among all the lots in the form of an assessment. The board shall assess the common expense liability for each lot at least annually based on a budget the board adopts in accordance with Sections 6 and 13 of this Act.*
- (3) *After termination of the declarant control period, the board shall abide by Section 13 of this Act for any increase of any assessment.*

- (4) *The board may charge interest or a late fee on any past due assessment or installment at the rate established by the board, not to exceed any maximum rate allowed by law.*

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

- (1) *In addition to the provisions of the declaration, bylaws, rules, or regulations of the association the assessment for each lot shall consist of:*
- (a) *The allocated common expense liability;*
 - (b) *Fines for violations levied by the board;*
 - (c) *Individual assessments for utility services that are imposed or levied in accordance with the declaration;*
 - (d) *Costs of maintenance, repair, or replacement incurred due to the willful or negligent act of an owner or occupant of a lot or the family, tenants, guests, or invitees of an owner or occupant of a lot; and*
 - (e) *Costs or charges associated with the enforcement of the declarations, bylaws, rules and regulations of the association, and any provision of this section, including but not limited to reasonable attorney fees, costs, and other expense.*
- (2) *Prior to imposing a charge for fines, damages, or an individual assessment pursuant to this section, the board shall give the owner a written notice and the opportunity to be heard.*
- (3) *In addition to all other assessments which are authorized in the declaration, the board of an association shall have the power to levy a special assessment against lot owners:*
- (a) *If the board finds that the purpose of the assessment is in the best interests of the association; and*
 - (b) *The proceeds of the assessment are used primarily for the maintenance and upkeep of the common areas and other such areas of association responsibility expressly provided for in the declaration, including capital expenditures.*
- (4) *After termination of the declarant control period, an affirmative vote of a majority of the full board shall be required to approve a special assessment subject to the following provisions:*
- (a) *Within thirty (30) days after board passage of a special assessment, a meeting of the association shall be held to allow owners an opportunity to rescind or reduce the special assessment; and*
 - (b) *A majority of the total number of lots of the planned community cast in person or by proxy shall be required to rescind or reduce the special assessment.*
- (5) *No director or officer of the association shall be liable for failure to perform his or her fiduciary duty if a special assessment for the funds necessary for the director or officer to perform his or her fiduciary duty is rescinded or reduced by the owners pursuant to this section. The association shall indemnify such director or officer against any damage resulting from a claimed breach of fiduciary duty arising therefrom.*
- (6) *The failure of an owner to pay an assessment or special assessment allowed under this section shall provide the association with the right to deny the owner access to any or all of the common areas, except that access to any road within the planned community that is a common area and provides direct access to the owner's lot shall not be denied.*
- (7) *The board shall adopt an annual budget. The board shall:*
- (a) *Provide a budget to all owners within thirty (30) days after the adoption;*
 - (b) *If the adopted budget contains an increase of greater than fifteen percent (15%) from the previous year's budget, provide notice to the members of a special meeting to consider member ratification of the budget;*
 - (c) *Hold a meeting within forty-five (45) days after the summary has been provided to members;*
 - (d) *Deem the budget ratified, whether or not a quorum is present, unless at that meeting a majority of all owners, or any larger vote specified in the declaration, reject the budget; and*
 - (e) *If the budget is rejected, continue the existing budget until such time as a subsequent budget is adopted by the board in conformity with this subsection.*

- (8) *The provisions of this section shall override any limitation on the amount of assessments or the amount of annual increases that may be contained in existing declarations, bylaws, rules, or regulations of a planned community.*

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

All owners, residents, tenants, and other persons lawfully in possession and control of any part of an ownership interest shall comply with any covenant, condition, and restriction set forth in any recorded document to which they are subject and with the bylaws, rules, and regulations of the association, as lawfully amended.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

- (1) *The association shall have a continuing lien upon the real estate or interest in any lot for the nonpayment of any assessment, special assessment, or charge levied in accordance with Section 13 of this Act, as well as any related interest, fines, administrative late fees, enforcement assessments, collection costs, or reasonable attorney fees that are chargeable against the lot and that remain unpaid thirty (30) days after any portion has become due and payable.*
- (2) *A lien charged and properly recorded against a property pursuant to this section is:*
- (a) *Valid unless it is sooner released or satisfied in the same manner provided by law for the release and satisfaction of mortgages on real property; and*
- (b) *Prior to any other lien, except:*
1. *Liens for real estate taxes and liens for other governmental charges, penalties, or assessments, including but not limited to liens filed by a local government pursuant to KRS 65.8835; and*
 2. *Any mortgage, liens, or encumbrances recorded prior to the lien recordation against the property.*

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

The governing documents of an association shall not prohibit the outdoor display of political yard signs by an owner or resident on the owner's or resident's property. Signs shall be displayed no earlier than thirty (30) days before any special, primary, or regular election and no later than seven (7) days after that election unless a longer time period is provided by local ordinance. The governing documents may include reasonable rules and regulations regarding the placement, size, and manner of display of political yard signs.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 17 of this Act may be cited as the Planned Community Act.

Signed by Governor March 20, 2023.

CHAPTER 24

(HB 165)

AN ACT relating to employee child-care assistance.

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

➔Section 1. KRS 199.883 is amended to read as follows:

- (1) The Employee Child Care Assistance Partnership Program is hereby established under the cabinet. To administer the program, the cabinet may:
- (a) Delegate authority to a subsidiary department;
 - (b) Coordinate and share information with other executive branch agencies; and
 - (c) Enter into contracts with third parties to administer the program or specific parts of the program.
- (2) The cabinet shall be responsible for:
- (a) Creating and making available a standardized contract for participation in the program;

- (b) Processing the contract between an employer, employee, and child-care provider that is submitted to the cabinet;
 - (c) Notifying the parties of their enrollment status in the program;
 - (d) Managing and administering the program funds;
 - (e) Securing third-party vendors in accordance with all applicable federal and state procurement regulations, if deemed necessary;
 - (f) Verifying the eligibility of the respective employee, employer, and child-care provider as parties to a contract for participation in the program prior to disbursement of a state match;
 - (g) Collecting and verifying household income information from eligible employees and determining the amount of the state match for which the employee is eligible; and
 - (h) Distributing educational materials about the program's objectives, benefits, and eligibility requirements to employers, employees, and child-care providers.
- (3) The cabinet shall review the completed contract after it is submitted by the employer and, if the employee, employer, and the proposed child-care provider meet program eligibility requirements, agree to match the contribution made by the employer up to one hundred percent (100%) of the cost of service from the fund.
- (4) The cabinet shall only become party to a proposed contract under this program if the fund reflects a positive balance based on both:
- (a) The cabinet's existing contractual obligations already accrued under this program; and
 - (b) The cabinet's additional financial obligation imposed by the proposed contract.
- (5) The cabinet shall not agree to become party to a proposed contract pursuant to this program if the corresponding financial obligation would cause the fund to accrue a negative balance.
- (6) The cabinet shall maintain a waitlist of contracts submitted after available funds were committed. The cabinet shall become party to a proposed contract from the waitlist as new funds become available and according to the order in which it was received.
- (7) The cabinet shall issue a state match directly to the child-care provider or through a third-party vendor for the duration of the contract.
- (8) The cabinet shall not disclose an employee's personal information without that individual's express written consent.
- (9) In the first fiscal year of the program, the cabinet shall administer the program according to the following:
- (a) The cabinet shall begin administering the program after April 8, 2022, including but not limited to:
 - 1. Promulgating the required administrative regulations as described in KRS 199.884; and
 - 2. Soliciting third-party vendor contracts, if deemed necessary;
 - (b) The cabinet shall not begin accepting proposed contracts from employers pursuant to this program prior to ninety (90) calendar days before July 1, 2023; and
 - (c) The cabinet shall not disburse state matches from the fund as a party to a contract with an employer, employee, and child-care provider pursuant to this program prior to July 1, 2023.
- (10) Beginning in 2024 and every year thereafter, the cabinet shall begin accepting proposed contracts from employers, employees, and child-care providers for the next fiscal year according to the following:
- (a) Ninety (90) calendar days before July 1 for employers with existing approved contracts pursuant to the program; and
 - (b) Forty-five (45) calendar days before July 1 for all other employers.
- (11) Beginning **December 15, 2023**, ~~in 2024~~ and every year thereafter, the cabinet shall publish reports detailing the efficacy of the program by July 15 and December 15 of each year and shall submit the report to the Legislative Research Commission. The report shall include at least the following information about the program:
- (a) Any appropriation made in the past fiscal year to the fund;

- (b) The total number of standardized contracts submitted by employers;
 - (c) The total amount of state matches paid out of the fund by the cabinet;
 - (d) The breakdown of the state matches paid by county;
 - (e) Information on the size, geographical location, and industry type of employers who participated in the program;
 - (f) The number, license type, quality rating, and geographical distribution of participating child-care providers;
 - (g) The average cost for services charged by child-care providers participating in the program and information on how these costs have increased or decreased during the most recent reporting period and previous reporting periods;
 - (h) The number and total dollar value of contracts not approved by the cabinet; and
 - (i) The demographic information of employees participating in the program.
- (12) Prior to one hundred twenty (120) calendar days before July 1, 2023, the cabinet shall publish a report detailing implementation plans for the program and submit the report to the Legislative Research Commission.

➔Section 2. KRS 199.887 is amended to read as follows:

- (1) Termination of an active contract between an employer, employee, child-care provider, and the cabinet pursuant to this program shall occur in the following circumstances:
- (a) If the relationship between the employee and employer is severed, the employer shall notify the child-care provider and the cabinet within three (3) business days of the separation, and the contract is terminated on the calendar date provided by the employer in the notification. If the employer fails to make this notification and the cabinet issues a state match to the provider on behalf of that employer's employee, then the employer shall reimburse the cabinet for the unnecessary state match; or
 - (b) If the employer fails to make a contribution or contributions for the eligible child-care costs in accordance to the terms of the contract, the child-care provider shall notify the cabinet within five (5) business days. After receiving notification from the provider, the cabinet shall temporarily cease providing a state match and shall notify the employer that the contract will be terminated unless the employer remedies the nonpayment within five (5) business days of receiving notification from the cabinet. If the provider fails to make this notification and receives a state match from the cabinet on behalf of that employer's employee, the provider shall reimburse the cabinet for the unnecessary state match.
- (2) Termination of an active contract between an employer, employee, child-care provider, and the cabinet pursuant to this program may occur in the following circumstances:
- (a) If the employee fails to pay the child-care provider for costs not covered by the employer contribution and the state match in accordance to the terms of the contract, the child-care provider may give the employee reasonable time to remedy the nonpayment. The child-care provider may notify the cabinet and terminate the contract on the date that the notification was issued. If the child-care provider voluntarily excuses the employee's nonpayment or the child-care provider does not notify the cabinet within two (2) calendar months from the date of the employee's nonpayment and continues to provide services, then the contract made between all the parties will automatically reflect the reduction in value;
 - (b) If the child-care provider ceases participation or otherwise loses its rating in the rating system described in KRS 199.8943, it shall notify all parties to the agreement immediately; and
 - (c) ~~Either~~ The employer, ~~or~~ employee, **or child-care provider** may terminate the contract at any time and for any reason. The terminating party shall notify all the parties to the contract and specify the desired termination date, which shall occur no sooner than two (2) weeks from the date of notification unless the child-care provider gives its consent to an earlier termination date. All parties to the contract shall be financially obligated, according to the provisions of the contract, up to the termination date.

Signed by Governor March 20, 2023.

CHAPTER 25

(HB 387)

AN ACT relating to reorganization.

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

➔Section 1. 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 Cabinet;
 5. The Senate co-chair of the Interim Joint Committee on Health ~~Services~~~~and Welfare~~ of the General Assembly; and
 6. The House co-chair of the Interim Joint Committee on Health ~~Services~~~~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 2. KRS 21A.190 is amended to read as follows:

- (1) The General Assembly respectfully requests that the Supreme Court of Kentucky institute a pilot project to study the feasibility and desirability of the opening or limited opening of court proceedings, except for proceedings related to sexual abuse, to the public which are related to:
 - (a) Dependency, neglect, and abuse proceedings under KRS Chapter 620; and
 - (b) Termination of parental rights proceedings under KRS Chapter 625.
- (2) (a) The pilot project may be established in a minimum of three (3) diverse judicial districts or judicial circuits or a division or divisions thereof chosen by the Chief Justice.
- (b) A pilot project authorized by this subsection shall not be established in a judicial district or judicial circuit or a division thereof when objected to by the applicable judge or county attorney.
- (3) The pilot project shall:
 - (a) Require participating courts to be presumptively open;
 - (b) Last for four (4) years, unless extended or limited by the General Assembly; and
 - (c) Be monitored and evaluated by the Administrative Office of the Courts to determine:
 - 1. Whether there are adverse effects resulting from the opening of certain proceedings or release of records;
 - 2. Whether the pilot project demonstrates a benefit to the litigants;
 - 3. Whether the pilot project demonstrates a benefit to the public;
 - 4. Whether the pilot project supports a determination that such proceedings should be presumptively open;
 - 5. Whether the pilot project supports a determination that such proceedings should be closed;
 - 6. How open proceedings under the pilot project impact the child;
 - 7. The parameters and limits of the program;
 - 8. Suggestions for the operation and improvement of the program;
 - 9. Rules changes which may be needed if the program is to be made permanent and expanded to all courts; and
 - 10. Recommendations for statutory changes which may be needed if the program is to be made permanent and expanded to all courts.
- (4) The Administrative Office of the Courts:

- (a) Shall provide an annual report to the Legislative Research Commission and the Interim Joint Committee on Judiciary by September 1 of each year the program is in operation with statistics, findings, and recommendations; and
- (b) May make periodic progress reports and statistical reports and provide suggestions to the Interim Joint Committee on *Families and Children*~~[Health and Welfare]~~ and to the Interim Joint Committee on Judiciary when determined necessary by the Chief Justice.

➔Section 3. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

- (1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;
- (2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;
- (3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;
- (4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;
- (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;
- (6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;
- (7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;
- (8)
 - (a) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In defining residency, the council shall classify a student as having Kentucky residency if the student met the residency requirements at the beginning of his or her last year in high school and enters a Kentucky postsecondary education institution within two (2) years of high school graduation. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent, except that the Kentucky Community and Technical College System may assess a mandatory student fee not to exceed eight dollars (\$8) per credit hour to be used exclusively for debt service on amounts not to exceed seventy-five percent (75%) of the total projects cost of the Kentucky Community and Technical College System agency bond projects included in 2014 Ky. Acts ch. 117, Part II, J., 11.
 - (b) The Kentucky Community and Technical College System mandatory fee established in this subsection shall only be used for debt service on agency bond projects.
 - (c) Any fee established as provided by this subsection shall cease to be assessed upon the retirement of the project bonds for which it services debt.
 - (d) Prior to the issuance of any bonds, the Kentucky Community and Technical College System shall certify in writing to the secretary of the Finance and Administration Cabinet that sufficient funds have been raised to meet the local match equivalent to twenty-five percent (25%) of the total project cost;

- (9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;
- (10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;
- (11)
 - (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.
 - (b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;
- (12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;
- (13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;
- (14) Establish course credit, transfer, and degree components as required in KRS 164.2951;
- (15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;
- (16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:
 - (a) Consistency with the institution's mission and the strategic agenda;
 - (b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;
 - (c) Elimination of unnecessary duplication of programs within and among institutions; and
 - (d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;
- (17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;
- (18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;

- (19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;
- (20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;
- (21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;
- (22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;
- (23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;
- (24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the *Interim Joint Committee on Families and Children* ~~Health and Welfare Committee~~;
- (25) (a) Develop in cooperation with each public university and the Kentucky Community and Technical College System a comprehensive orientation and education program for new members of the council and the governing boards and continuing education opportunities for all council and board members. For new members of the council and institutional governing boards, the council shall:
1. Ensure that the orientation and education program comprises six (6) hours of instruction time and includes but is not limited to information concerning the roles of the council and governing board members, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget and finances, strategic plans and priorities, institutional policies and procedures, board fiduciary responsibilities, legal considerations including open records and open meetings requirements, ethical considerations arising from board membership, and the board member removal and replacement provisions of KRS 63.080;
 2. Establish delivery methods by which the orientation and education program can be completed in person or electronically by new members within one (1) year of their appointment or election;
 3. Provide an annual report to the Governor and Legislative Research Commission of those new board members who do not complete the required orientation and education program; and
 4. Invite governing board members of private colleges and universities licensed by the Council on Postsecondary Education to participate in the orientation and education program described in this subsection;
- (b) Offer, in cooperation with the public universities and the Kentucky Community and Technical College System, continuing education opportunities for all council and governing board members; and
- (c) Review and approve the orientation programs of each public university and the Kentucky Community and Technical College System for their governing board members to ensure that all programs and information adhere to this subsection;
- (26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;
- (27) Select and appoint a president of the council under KRS 164.013;

- (28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;
- (29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;
- (30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;
- (31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;
- (32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;
- (33) Develop a statewide policy to promote employee and faculty development in state and locally operated secondary area technology centers through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a state or locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term. The employee shall complete the Free Application for Federal Student Aid to determine the level of need and eligibility for state and federal financial aid programs. The amount of tuition waived shall not exceed the cost of tuition at the institution less any state or federal grants received, which shall be credited first to the student's tuition;
- (34) Participate with the Kentucky Department of Education, the Kentucky Board of Education, and postsecondary education institutions to ensure that academic content requirements for successful entry into postsecondary education programs are aligned with high school content standards and that students who master the high school academic content standards shall not need remedial courses. The council shall monitor the results on an ongoing basis;
- (35) Cooperate with the Kentucky Department of Education and the Education Professional Standards Board in providing information sessions to selected postsecondary education content faculty and teacher educators of the high school academic content standards as required under KRS 158.6453(2)(1);
- (36) Cooperate with the Office of the Kentucky Center for Statistics and ensure the participation of the public institutions as required in KRS 151B.133;
- (37) Pursuant to KRS 63.080, review written notices from the Governor or from a board of trustees or board of regents concerning removal of a board member or the entire appointed membership of a board, investigate the member or board and the conduct alleged to support removal, and make written recommendations to the Governor and the Legislative Research Commission as to whether the member or board should be removed; and
- (38) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

➔Section 4. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office of the Ombudsman and Administrative Review, an Office of Legal Services, an Office of Inspector General, an Office of Public Affairs, an Office of Human Resource Management, an Office of Finance and Budget, an Office of Legislative and Regulatory Affairs, an Office of Administrative Services, an Office of Application Technology Services and an Office of Data Analytics, as follows:
 - (a) The Office of the Ombudsman and Administrative Review shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and shall:

ACTS OF THE GENERAL ASSEMBLY

1. Investigate, upon complaint or on its own initiative, any administrative act of an organizational unit, employee, or contractor of the cabinet, without regard to the finality of the administrative act. Organizational units, employees, or contractors of the cabinet shall not willfully obstruct an investigation, restrict access to records or personnel, or retaliate against a complainant or cabinet employee;
 2. Make recommendations that resolve citizen complaints and improve governmental performance and may require corrective action when policy violations are identified;
 3. Provide evaluation and information analysis of cabinet performance and compliance with state and federal law;
 4. Place an emphasis on research and best practices, program accountability, quality service delivery, and improved governmental performance;
 5. Provide information on how to contact the office for public posting at all offices where Department for Community Based Services employees or contractors work, at any facility where a child in the custody of the cabinet resides, and to all cabinet or contracted foster parents;
 6. Report to the Office of Inspector General for review and investigation any charge or case against an employee of the Cabinet for Health and Family Services where it has cause to believe the employee has engaged in dishonest, unethical, or illegal conduct or practices related to his or her job duties; or any violation of state law or administrative regulation by any organization or individual regulated by, or contracted with the cabinet;
 7. Compile a report of all citizen complaints about programs or services of the cabinet and a summary of resolution of the complaints and submit the report upon request to the Interim Joint Committee on Health *Services and the Interim Joint Committee on Families and Children*~~and Welfare and Family Services~~;
 8. Include oversight of administrative hearings; and
 9. Provide information to the Office of the Attorney General, when requested, related to substantiated violations of state law against an employee, a contractor of the cabinet, or a foster or adoptive parent;
- (b) The Office of Legal Services shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105;
- (c) The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary. The Office of Inspector General shall be responsible for:
1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
 2. Licensing and regulatory functions as the secretary may delegate;
 3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.1911 to 311.1959, 311.1961, and 311.1963;
 4. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeals functions, pursuant to KRS Chapter 216B;
 5. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority;
 6. The oversight of the operations of the Kentucky Health Information Exchange; and

7. The support and guidance to health care providers related to telehealth services, including the development of policy, standards, resources, and education to expand telehealth services across the Commonwealth;
 - (d) The Office of Public Affairs shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide information to the public and news media about the programs, services, and initiatives of the cabinet;
 - (e) The Office of Human Resource Management shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall coordinate, oversee, and execute all personnel, training, and management functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality improvement services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions;
 - (f) The Office of Finance and Budget shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide central review and oversight of budget, contract, and cabinet finances. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary;
 - (g) The Office of Legislative and Regulatory Affairs shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide central review and oversight of legislation, policy, and administrative regulations. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary;
 - (h) The Office of Administrative Services shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide central review and oversight of procurement, general accounting including grant monitoring, and facility management. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary;
 - (i) The Office of Application Technology Services shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide application technology services including central review and oversight. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary; and
 - (j) The Office of Data Analytics shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and shall identify and innovate strategic initiatives to inform public policy initiatives and provide opportunities for improved health outcomes for all Kentuckians through data analytics. The office shall provide leadership in the redesign of the health care delivery system using electronic information technology to improve patient care and reduce medical errors and duplicative services;
- (2) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
 - (3) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. This shall include but not be limited to oversight of the Division of Women's Health. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The

commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

- (4) Department for Behavioral Health, Developmental and Intellectual Disabilities. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall develop and administer programs for the prevention of mental illness, intellectual disabilities, brain injury, developmental disabilities, and substance use disorders and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, or who have an intellectual disability, brain injury, developmental disability, or a substance use disorder. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall be headed by a commissioner for behavioral health, developmental and intellectual disabilities who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for behavioral health, developmental and intellectual disabilities shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for behavioral health, developmental and intellectual disabilities shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;
- (5) Office for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the office. The office shall advocate the rights of children with disabilities and, to the extent that funds are available, shall ensure the administration of services for children with disabilities as are deemed appropriate by this office pursuant to Title V of the Social Security Act. The office may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Office for Children with Special Health Care Needs shall be performed through the office of the executive director. The executive director shall be appointed by the secretary with the approval of the Governor under KRS 12.050;
- (6) Department for Family Resource Centers and Volunteer Services. The Department for Family Resource Centers and Volunteer Services shall streamline the various responsibilities associated with the human services programs for which the cabinet is responsible. This shall include, but not be limited to, oversight of the Division of Family Resource and Youth Services Centers and Serve Kentucky. The Department for Family Resource Centers and Volunteer Services shall be headed by a commissioner who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for family resource centers and volunteer services shall be by training and experience in administration and management qualified to perform the duties of the office, shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;
- (7) Department for Community Based Services. The Department for Community Based Services shall administer and be responsible for child and adult protection, violence prevention resources, foster care and adoption, permanency, and services to enhance family self-sufficiency, including child care, social services, public assistance, and family support. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (8) Department for Income Support. The Department for Income Support shall be responsible for child support enforcement and disability determination. The department shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, and shall have responsibility for determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and
- (9) Department for Aging and Independent Living. The Department for Aging and Independent Living shall serve as the state unit as designated by the Administration on Aging Services under the Older Americans Act and shall have responsibility for administration of the federal community support services, in-home services, meals, family and caregiver support services, elder rights and legal assistance, senior community services employment program, the state health insurance assistance program, state home and community based services including home care, Alzheimer's respite services and the personal care attendant program, certifications of assisted living facilities, the state Council on Alzheimer's Disease and other related disorders, and guardianship services. The department shall also administer the Long-Term Care Ombudsman Program and the Medicaid Home and Community Based Waivers Participant Directed Services Option (PDS) Program. The

department shall serve as the information and assistance center for aging and disability services and administer multiple federal grants and other state initiatives. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.

➔Section 5. KRS 194A.564 is amended to read as follows:

The cabinet secretary shall designate a study group composed of personnel within the Department for Community Based Services' field services staff and any other persons deemed necessary to make recommendations regarding personnel classifications for state agency social workers. The study group shall include in its deliberations, but is not limited to, special personnel designations that would permit or require specialized personal safety training and other requirements that reflect the sometimes dangerous nature of official job duties of state agency social workers. The study group shall report its recommendations by November 15, 2007~~], to the Governor and the Interim Joint Committees on Appropriations and Revenue and Health and Welfare].~~

➔Section 6. KRS 194A.601 is amended to read as follows:

- (1) The Office of Dementia Services is established within the cabinet. The purpose of the office is to oversee information and resources related to policy and services affecting residents of Kentucky with dementia, and the caregivers and families of the residents.
- (2) The dementia services coordinator shall be a full-time, permanent employee and shall be responsible for the staffing and operational details of the office. A report on the operations of the office shall be made to the secretary within ninety (90) days of June 29, 2021. An annual report on the operation of the office shall be made to the Interim Joint Committee on Health~~], Welfare, and Family] Services by December 1 of each year.~~
- (3) The duties of the office shall include but not be limited to:
 - (a) Creating, implementing, and updating the Kentucky Alzheimer's and Related Dementias State Plan;
 - (b) Coordinating and managing the Alzheimer's Disease and Related Disorders Advisory Council;
 - (c) Assessing and analyzing dementia-specific data collected by the cabinet, including the behavioral risk factor surveillance system, and data from other relevant departments and divisions;
 - (d) Evaluating of state-funded dementia services;
 - (e) Identifying and supporting the development of dementia-specific trainings;
 - (f) Streamlining all applicable state government services to increase efficiency and improve the quality of care in residential and home and community-based settings;
 - (g) Identifying any duplicative services to eliminate all unnecessary costs;
 - (h) Identifying and applying for grant opportunities to expand the scope of services while reducing state costs; and
 - (i) Completing other duties relevant to supporting policy development and implementation to support individuals with dementia and their family caregivers.

➔Section 7. KRS 199.665 is amended to read as follows:

- (1) As used in this section, unless the context otherwise requires;
 - (a) "Cabinet" means the Cabinet for Health and Family Services;
 - (b) "Performance-based contracting" means an approach that stresses permanency outcomes for children and utilizes a payment structure that reinforces provider agencies' efforts to offer services that improve the outcomes for children; and
 - (c) "Secretary" means the secretary of the Cabinet for Health and Family Services.
- (2) The secretary shall designate a study group to make recommendations regarding the creation and implementation of performance-based contracting for licensed child-caring facilities and child-placing agencies in the Commonwealth.
- (3) The study group shall be composed of the following members:
 - (a) The secretary;
 - (b) The commissioner for the Department for Community Based Services;

- (c) The director of the Administrative Office of the Courts, or designee;
 - (d) The executive director of the Governor's Office of Early Childhood, or designee;
 - (e) One (1) adult who was a former foster child in the Commonwealth;
 - (f) One (1) adult who is a current or former foster parent in the Commonwealth;
 - (g) Two (2) employees of a licensed child-placing agency;
 - (h) Two (2) employees of a licensed child-caring facility; and
 - (i) Any personnel within the Department for Community Based Services that the secretary deems necessary.
- (4) In its deliberations, the study group shall include but not be limited to analysis of improved timeliness and likelihood of permanency such as reunification, adoption, or guardianship; fewer moves for children in foster care; and reduced instances of reentry into care.
- (5) The study group shall report its recommendations by December 1, 2018~~], to the Governor and the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and Family Services].~~ The study group shall cease to operate after the delivery of the recommendations required by this subsection.
- (6) By July 1, 2019, the cabinet shall:
- (a) Establish and implement performance-based contracting for licensed child-caring facilities and child-placing agencies that contract with the department for services; and
 - (b) Apply and implement all standards, processes, and procedures established for performance-based contracting for licensed child-caring facilities and child-placing agencies in accordance with paragraph (a) of this subsection to all other cabinet-operated programs that are like those operated by child-caring facilities and child-placing agencies.
- (7) The cabinet shall promulgate administrative regulations to implement this section.

➔Section 8. KRS 199.8943 is amended to read as follows:

- (1) As used in this section:
- (a) "Federally funded time-limited employee" has the same meaning as in KRS 18A.005;
 - (b) "Primary school program" has the same meaning as in KRS 158.031(1); and
 - (c) "Public-funded" means a program which receives local, state, or federal funding.
- (2) The Early Childhood Advisory Council shall, in consultation with early care and education providers, the Cabinet for Health and Family Services, and others, including but not limited to child-care resource and referral agencies and family resource centers, Head Start agencies, and the Kentucky Department of Education, develop a quality-based graduated early care and education program rating system for public-funded licensed child-care and certified family child-care homes, public-funded preschool, and Head Start, based on but not limited to:
- (a) Classroom and instructional quality;
 - (b) Administrative and leadership practices;
 - (c) Staff qualifications and professional development; and
 - (d) Family and community engagement.
- (3) (a) The Cabinet for Health and Family Services shall, in consultation with the Early Childhood Advisory Council, promulgate administrative regulations in accordance with KRS Chapter 13A to implement the quality-based graduated early childhood rating system for public-funded child-care and certified family child-care homes developed under subsection (2) of this section.
- (b) The Kentucky Department of Education shall, in consultation with the Early Childhood Advisory Council, promulgate administrative regulations in accordance with KRS Chapter 13A to implement the quality-based graduated early childhood rating system, developed under subsection (2) of this section, for public-funded preschool.

- (c) The administrative regulations promulgated in accordance with paragraphs (a) and (b) of this subsection shall include:
 - 1. Agency time frames of reviews for rating;
 - 2. An appellate process under KRS Chapter 13B; and
 - 3. The ability of providers to request reevaluation for rating.
- (4) The quality-based early childhood rating system shall not be used for enforcement of compliance or in any punitive manner.
- (5) The Early Childhood Advisory Council, in consultation with the Kentucky Center for Education and Workforce Statistics, the Kentucky Department of Education, and the Cabinet for Health and Family Services, shall report by October 1 of each year to the Interim Joint Committee on Education on the implementation of the quality-based graduated early childhood rating system. The report shall include the following quantitative performance measures as data becomes available:
 - (a) Program participation in the rating system;
 - (b) Ratings of programs by program type;
 - (c) Changes in student school-readiness measures;
 - (d) Longitudinal student cohort performance data tracked through student completion of the primary school program; and
 - (e) Long-term viability recommendations for sustainability at the end of the Race to the Top-Early Learning Challenge grant.
- (6) By November 1, 2017, the Early Childhood Advisory Council and the Cabinet for Health and Family Services shall report~~[to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare]~~ on recommendations and plans for sustaining program quality after the depletion of federal Race to the Top-Early Learning Challenge grant funds.
- (7) Any federally funded time-limited employee personnel positions created as a result of the federal Race to the Top-Early Learning Challenge grant shall be eliminated upon depletion of the grant funds.

➔Section 9. KRS 199.8996 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall prepare the following reports on child-care programs, and shall make them available upon request:
 - (a) State and federally mandated reports on the child-care funds administered by the Department for Community Based Services; and
 - (b) Reports on the child-care subsidy programs, training, resource and referral, and similar activities upon request by the public, the Early Childhood Advisory Council, or the Child Care Advisory Council, to the extent resources are available within the cabinet and as permitted under the Kentucky Open Records Act, KRS 61.870 to 61.884, and state and federal laws governing the protection of human research subjects.
- (2) The cabinet shall include the number of dedicated child-care licensing surveyor positions and the ratio of surveyors to child-care facilities within its half-year block grant status reports.
- (3) By November 1, 2017, the Cabinet for Health and Family Services and the Early Childhood Advisory Council shall report~~[to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare]~~ on recommendations and plans for sustaining the quality-based graduated early care and education program after the depletion of federal Race to the Top-Early Learning Challenge grant funds.

➔Section 10. KRS 205.470 is amended to read as follows:

- (1) As used in this section, "aging caregiver" means an individual age sixty (60) or older who provides care for an individual with an intellectual disability or other developmental disability.
- (2) If state, federal, or other funds are available, the Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities shall, in cooperation with the Department for Aging and Independent Living and the Department for Medicaid Services, establish a centralized resource and referral center designed as a one-

stop, seamless system to provide aging caregivers with information and assistance with choices and planning for long-term supports for individuals with an intellectual disability or developmental disability.

- (3) The center created in subsection (2) of this section shall provide but not be limited to the following services:
- (a) Comprehensive information on available programs and services, including but not limited to:
 1. Residential services;
 2. Employment training;
 3. Supported employment;
 4. Behavioral support;
 5. Respite services;
 6. Adult day health or adult day social services;
 7. Support coordination;
 8. Home or environmental modifications;
 9. Community living services, including an attendant, and assistance with homemaking, shopping, and personal care;
 10. Support groups in the community;
 11. Psychiatric services;
 12. Consumer-directed options;
 13. Attorneys or legal services to assist with will preparation; and
 14. The impact of inheritance on government benefits and options, including establishing a special needs trust;
 - (b) Printed material and Internet-based information related to:
 1. Options for future planning;
 2. Financial and estate planning;
 3. Wills and trusts; and
 4. Advance directives and funeral and burial arrangements; and
 - (c) Referral to community resources.
- (4) The center created in subsection (2) of this section shall operate a toll-free number at least during regular business hours and shall publish information required in paragraph (a) of subsection (3) of this section and a description of services provided by the center on a cabinet ~~website~~^[Web site].
- (5) The center created in subsection (2) of this section shall make the information listed in subsection (3) of this section available to the support broker and any representative of an individual who is participating in a Medicaid consumer-directed option.
- (6) The center shall use electronic information technology to track services provided and to follow-up with individuals served and provide additional information or referrals as needed.
- (7) The department may contract with a private entity to provide the services required under subsections (2) and (3) of this section.
- (8) The cabinet may provide services identified in subsection (3) of this section to individuals of any age who are caregivers of individuals with an intellectual disability or developmental disability.
- (9) Prior to January 1, 2008, the department shall submit a report ~~to the Interim Joint Committee on Health and Welfare~~ that includes but is not limited to the following information:
- (a) The number of individuals who contacted the center;
 - (b) A description of the categories of questions asked by individuals calling the center; and

- (c) A summary of the services provided, including the community resources to which individuals were referred.

➔Section 11. KRS 205.525 is amended to read as follows:

- (1) Concurrent with submitting an application for a waiver or waiver amendment or a request for a plan amendment to any federal agency that approves waivers, waiver amendments, and plan amendments, the cabinet shall provide to the Interim Joint Committee on Health~~[, Welfare, and Family]~~ Services, and to the Interim Joint Committee on Appropriations and Revenue a copy, summary, and statement of benefits of the application for a waiver or waiver amendment or request for a plan amendment.
- (2) The cabinet shall provide an update on the status of the application for a waiver or waiver amendment or request for a plan amendment to the Legislative Research Commission upon request.
- (3) If the cabinet is expressly directed by the General Assembly to submit an application for a waiver or waiver amendment or a request for a plan amendment to any federal agency that approves waivers, waiver amendments, or plan amendments for public assistance programs administered under this chapter and that application or request is denied by the federal agency, the cabinet shall notify the Legislative Research Commission of the reasons for the denial. If instructed by the General Assembly through legislative action during the next legislative session, the cabinet shall resubmit, with or without modifications based on instructions from the General Assembly, the application for a waiver or waiver amendment or request for a plan amendment.

➔Section 12. KRS 205.619 is amended to read as follows:

- (1) By October 30, 2008, the Cabinet for Health and Family Services shall submit to the Center for Medicare and Medicaid Services an amendment to the State Medicaid Plan to permit the establishment of a Kentucky Long-Term Care Partnership Insurance Program that provides for the disregard of any assets or resources in an amount equal to the insurance benefit payments made to or on behalf of an individual who is a beneficiary of the partnership insurance program that meets the requirements of KRS 304.14-640 and 304.14-642.
- (2) The secretary of the cabinet shall notify in writing the commissioner of the Department of Insurance~~[and the co-chairs of the Interim Joint Committee on Health and Welfare]~~ and the Interim Joint Committee on Banking and Insurance within two (2) business days of the submission of the plan amendment and of the receipt of the response by the federal agency.
- (3) Upon approval by the federal government of the state plan amendment, the Department for Medicaid Services, in conjunction with the Department of Insurance, shall establish the Kentucky Long-Term Care Partnership Insurance Program in accordance with KRS 304.14-640 and 304.14-642.
- (4) The department shall:
 - (a) Provide consultation, information, and materials to the Department of Insurance to assist in the development and issuance of uniform training materials in accordance with KRS 304.14-642(4); and
 - (b) Collaborate in the preparation of the report required in KRS 304.14-642(6).

➔Section 13. KRS 205.702 is amended to read as follows:

- (1) The cabinet shall take all necessary actions to ensure that parents receiving public assistance may engage in educational and vocational programs where assessment shows their chances of achieving self-sufficiency will improve.
- (2) The cabinet shall file quarterly progress reports and an annual report with the Legislative Research Commission *for distribution to*~~[and]~~ the Interim Joint Committee on *Families and Children*~~[Health and Welfare]~~ documenting the results of the cabinet's efforts to enable parents receiving public assistance to participate in activities to achieve self-sufficiency. The annual report shall identify the number and proportion of parents, compared to the previous state fiscal year and the last full year of activity under the Job Opportunities and Basic Skills Program who:
 - (a) Participated in each type of educational, vocational training, or work activity, including post-secondary education;
 - (b) Successfully completed educational or vocational programs;
 - (c) Earned income due to work activity, including work study programs, while receiving public assistance;
 - (d) Became ineligible for public assistance due to increases in earnings; and

- (e) Became ineligible for public assistance for other reasons, including but not limited to penalties or expiration of time limits.

➔Section 14. KRS 205.704 is amended to read as follows:

- (1) The cabinet shall undertake a joint planning process with appropriate state, local, and private education institutions, interested agencies, and citizens to ensure that opportunities for low income parents to continue or improve their education shall continue with the implementation of the public assistance program funded by federal block grant dollars under Title IV-A of the Federal Social Security Act, 42 U.S.C. secs. 602 et seq. To this end, by July 31, 1998, the cabinet shall convene and provide staff services for an advisory group of interested parties to evaluate opportunities and strategies and make recommendations for continued participation by low income parents in education activities, including, but not limited to, representatives of:
 - (a) The state university system;
 - (b) The state community college system;
 - (c) Private colleges and universities;
 - (d) State vocational and technical schools;
 - (e) The Kentucky Higher Education Assistance Authority;
 - (f) Basic and secondary education programs, including literacy, adult basic education, a High School Equivalency Diploma program, and high school programs;
 - (g) Advocacy and citizens groups representing low income parents, including low income parents in sufficient number to represent at least one quarter (1/4) of the total group;
 - (h) Providers of child care and other supportive services; and
 - (i) Two (2) members each from the Senate, as appointed by the President of the Senate, and the House of Representatives, as appointed by the Speaker of the House.
- (2) The cabinet shall prepare a strategic plan for continuation of education opportunities for low income parents, based on the recommendations of the advisory group. The cabinet shall submit the plan to the Legislative Research Commission ~~and the Interim Joint Committee on Health and Welfare~~ no later than July 31, 1999. At a minimum, the plan shall set forth strategies, including any funding necessary, to:
 - (a) Create work study opportunities; and
 - (b) Increase the access to child care funding.

➔Section 15. KRS 209A.122 is amended to read as follows:

- (1) As used in this section:
 - (a) "Center" means the Criminal Justice Statistical Analysis Center created in KRS 15.280;
 - (b) "Corollary victim" means an individual other than the victim who is directly impacted by domestic violence and abuse or dating violence and abuse, either through relationship or proximity;
 - (c) "Domestic violence fatalities" means deaths that occur as a result of domestic violence and abuse or dating violence and abuse, and includes but is not limited to homicides, related suicides, and corollary victims; and
 - (d) "Near fatality" means a crime where serious physical injury as defined in KRS 500.080 occurs.
- (2) The center shall:
 - (a) Collect information on domestic violence fatalities, domestic violence and abuse, and dating violence and abuse within the Commonwealth from subsections (3) to (8) of this section; and
 - (b) Produce an annual report by July 1 of each year and submit the report to the:
 - 1. Kentucky Coalition Against Domestic Violence;
 - 2. Governor;
 - 3. Cabinet for Health and Family Services;
 - 4. Interim Joint Committee on Judiciary;

5. Interim Joint Committee on *Families and Children*~~[Health, Welfare, and Family Services]~~; and
6. Legislative Research Commission.

The Kentucky Coalition Against Domestic Violence may provide the agencies listed in paragraph (b)1. to 6. of this subsection with best practices and any other recommendations for public policy by November 1 of each year.

- (3) (a) The Department of Kentucky State Police shall provide the center with:
 1. The number of domestic violence and abuse and dating violence and abuse calls for service to which the Kentucky State Police and associated law enforcement agencies responded;
 2. The number of arrests by Kentucky State Police and associated agencies in response to calls of domestic violence and abuse or dating violence and abuse; and
 3. If an arrest was made, the arresting offense charged by Kentucky State Police or associated law enforcement agencies.
- (b) The Department of Kentucky State Police shall separately report:
 1. The number of domestic violence and abuse and dating violence and abuse calls for service to which all other law enforcement agencies responded, if known;
 2. The number of arrests by all other local law enforcement agencies in response to calls of domestic violence and abuse and dating violence and abuse; and
 3. If an arrest was made, the arresting offense listed by all other local law enforcement agencies not reported under paragraph (a) of this subsection.
- (4) The Administrative Office of the Courts shall provide the center with:
 - (a) The number and type of petitions for orders of protection filed and denied under KRS 403.725;
 - (b) The number and type of petitions for interpersonal violence orders filed and denied under KRS 456.030;
 - (c) The number of emergency protective orders granted under KRS 403.730 and temporary interpersonal protective orders granted under KRS 456.040;
 - (d) The number of domestic violence orders granted under KRS 403.740 and interpersonal protective orders granted under 456.060, excluding amended or corrected orders;
 - (e) The relationship between the petitioner and the respondent, if known;
 - (f) Demographics of the parties, including age, race, and gender;
 - (g) Information on whether the victim was or is pregnant, if indicated on the petition; and
 - (h) The number of criminal charges for a violation of an order of protection.
- (5) The Law Information Network of Kentucky (LINK) shall provide the center with the:
 - (a) Number of orders of protection received to be served by law enforcement agencies;
 - (b) Number of orders of protection served by law enforcement agencies;
 - (c) Number of orders of protection in LINK; and
 - (d) Average time for actual service to be returned.
- (6) The Cabinet for Health and Family Services shall provide the center with:
 - (a) The number of reports of alleged child abuse made to the cabinet through an adult or child abuse hotline in which there were also allegations of domestic violence; and
 - (b) Domestic violence and abuse and dating violence and abuse shelter statistics reported to the cabinet, including but not limited to the:
 1. Number of beds;
 2. Number of minors served in shelter;
 3. Number of minors served in non-shelter services;

4. Number of adults served in shelter;
 5. Number of adults served in non-shelter services;
 6. Demographics, including age and race;
 7. Number of crisis or hotline calls;
 8. Number of minors receiving:
 - a. Crisis intervention;
 - b. Victim advocacy services; and
 - c. Individual or group counseling or support group;
 9. Number of adult victims receiving:
 - a. Crisis intervention;
 - b. Victim advocacy services;
 - c. Individual or group counseling or support group;
 - d. Criminal or civil legal advocacy;
 - e. Medical accompaniment; and
 - f. Transportation services; and
 10. Type of services provided.
- (7) The Division of Kentucky State Medical Examiner's Office shall provide the center with the number of deaths in which domestic violence and abuse or dating violence and abuse was a contributing factor.
- (8) Coroners shall provide the center with the number of deaths as a result of, or suspected to be a result of, domestic violence and abuse or dating violence and abuse.
- ➔Section 16. 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 Cabinet, Office of Vocational Rehabilitation;
 3. The Cabinet for Health and Family Services, Department for Aging and Independent Living;
 4. The Education and Labor 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 ~~Services and Welfare~~ by July 1 of every odd-numbered year.

➔Section 17. KRS 210.300 is amended to read as follows:

- (1) The secretary of the Cabinet for Health and Family Services shall promulgate administrative regulations no later than October 1, 2022, in accordance with KRS Chapter 13A establishing hospital districts, for the purpose of determining to which of the state institutions or contracted hospitals for the mentally ill the persons admitted from each county shall initially be sent.
- (2) In establishing the hospital districts under subsection (1) of this section, the secretary shall consider the:
 - (a) Distance and travel time from each county to a state institution or contracted hospital for the mentally ill;
 - (b) Need to transport the individual to a hospital or psychiatric facility to secure an evaluation or for admission without unnecessary delay as required under KRS Chapters 202A, 202B, and 202C; and
 - (c) Population of the hospital districts based upon the most recent federal decennial census.
- (3) The secretary shall also establish and maintain a list of local hospitals containing a psychiatric unit or crisis stabilization unit approved by the cabinet to which individuals may be transported and admitted as an alternative to a state institution or contracted hospital for the mentally ill when clinically appropriate due to circumstances that include but are not limited to:
 - (a) The ability or inability of the designated state institution or contracted hospital to accept the individual to be transported or evaluated without delay due to capacity limitations, lack of staffing, or other impediment; or
 - (b) The need for immediate and emergent treatment or evaluation arising from but not limited to the threat or reasonable fear of physical harm to the individual or any employee or agent of the transporting agency or service.

Only those hospitals that have filed a written notice with the cabinet of the hospital's willingness to accept patients under this subsection may accept admissions.

- (4) The secretary shall review the hospital districts on an annual basis to ensure transports and evaluations occur without unnecessary delay as required under this section and KRS Chapters 202A, 202B, and 202C, and shall provide a report to the Interim Joint Committee on Health, ~~Welfare, and Family~~ Services and the Interim Joint Committee on Judiciary on or before October 1, 2022, and on or before October 1 of each year thereafter. The report shall, at a minimum, include:
- (a) Any changes made to any hospital district and the reason for the change;
 - (b) The name and location of state institutions accepting patients for admission under KRS Chapters 202A, 202B, and 202C, including the counties the state institution serves; and
 - (c) The name and locations of any contracted hospital accepting patients for admission under KRS Chapters 202A, 202B, and 202C, including the counties the contracted hospital serves.

➔Section 18. KRS 210.365 is amended to read as follows:

- (1) As used in this section:
 - (a) "Commission" means the Kentucky Fire Commission;
 - (b) "Crisis intervention team (CIT) training" means a forty (40) hour training curriculum based on the Memphis Police Department Crisis Intervention Team model of best practices for law enforcement intervention with persons who may have a mental illness, substance use disorder, an intellectual disability, developmental disability, or dual diagnosis that meets the requirements of subsections (2) to (5) of this section and is approved by the commission and the Kentucky Law Enforcement Council;
 - (c) "Department" means the Department for Behavioral Health, Developmental and Intellectual Disabilities;
 - (d) "Prisoner" has the same meaning as set out in KRS 441.005; and
 - (e) "Qualified mental health professional" has the same meaning as set out in KRS 202A.011.
- (2) The department shall, in collaboration with the commission, Justice and Public Safety Cabinet, the regional community boards for mental health or individuals with an intellectual disability, and representatives of the Kentucky statewide affiliate of the National Alliance on Mental Illness, coordinate the development of CIT training designed to train firefighters and law enforcement officers to:
 - (a) Effectively respond to persons who may have a mental illness, substance use disorder, intellectual disability, developmental disability, or dual diagnosis;
 - (b) Reduce injuries to firefighters, officers, and citizens;
 - (c) Reduce inappropriate incarceration;
 - (d) Reduce liability; and
 - (e) Improve risk management practices for firefighter and law enforcement agencies.
- (3) The CIT training shall include but not be limited to:
 - (a) An introduction to crisis intervention teams;
 - (b) Identification and recognition of the different types of mental illnesses, substance use disorders, intellectual disabilities, developmental disabilities, and dual diagnoses;
 - (c) Interviewing and assessing a person who may have a mental illness, substance use disorder, intellectual disability, developmental disability, or dual diagnosis;
 - (d) Identification and common effects of psychotropic medications;
 - (e) Suicide prevention techniques;
 - (f) Community resources and options for treatment;
 - (g) Voluntary and involuntary processes for hospitalization of a person with a mental illness, substance use disorder, intellectual disability, developmental disability, or dual diagnosis; and
 - (h) Hostage or other negotiations with a person with a mental illness, intellectual disability, substance use disorder, developmental disability, or dual diagnosis.
- (4) The curriculum shall be presented by a team composed of, at a minimum:

- (a) A firefighter, firefighter personnel training instructor, or a law enforcement training instructor who has completed a forty (40) hour CIT training course and a CIT training instructor's course which has been approved by the commission or the Kentucky Law Enforcement Council, and at least forty (40) hours of direct experience working with a CIT;
 - (b) A representative from the local community board for mental health or individuals with an intellectual disability serving the region where CIT training is conducted;
 - (c) A consumer of mental health services; and
 - (d) A representative of the Kentucky statewide affiliate of the National Alliance on Mental Illness.
- (5) (a) The department shall submit the CIT training curriculum and the names of available instructors approved by the department to conduct or assist in the delivery of CIT training to the commission or Kentucky Law Enforcement Council no later than July 1, 2021.
- (b) The commission or Kentucky Law Enforcement Council shall notify the department of approval or disapproval of the CIT training curriculum and trainers within thirty (30) days of submission of the curriculum and the names of instructors.
- (c) The commission or Kentucky Law Enforcement Council may waive instructor requirements for non-firefighter trainers or non-law enforcement trainers whose names are submitted by the department.
- (d) If the curriculum or trainers are not approved, the department shall have an opportunity to revise and resubmit the curriculum and to submit additional names of instructors if necessary.
- (6) If the curriculum is approved, the commission or Kentucky Law Enforcement Council shall:
- (a) Notify all agencies employing firefighters, as defined in KRS 61.315(1)(b), of the availability of the CIT training;
 - (b) Notify the Department of Kentucky State Police and all law enforcement agencies employing peace officers certified under KRS 15.380 to 15.404 of the availability of the CIT training; and
 - (c) Notify all instructors and entities approved for firefighter or law enforcement training under KRS 15.330 and 95A.040 of the availability of the CIT training.
- (7) Any firefighter training entity or law enforcement training entity approved by the commission or Kentucky Law Enforcement Council may use the CIT training model and curriculum in firefighter or law enforcement in-service training as specified by subsection (1) of this section that is consistent with the Memphis CIT national model for best practices.
- (8) No later than one (1) year after June 26, 2021, the department shall submit to the commission and Kentucky Law Enforcement Council a CIT training instructors' curriculum and the names of available instructors approved by the department to conduct or assist in the delivery of CIT training instructors' training. Additional instructors may be submitted on a schedule determined by the commission or Kentucky Law Enforcement Council.
- (9) All CIT-trained firefighters and law enforcement officers shall report to his or her agency on forms provided with the CIT curriculum on encounters with persons with mental illness, substance use disorders, intellectual disabilities, developmental disabilities, and dual diagnoses. The firefighter and law enforcement agencies shall aggregate reports received and submit nonidentifying information to the department on a monthly basis. Except for information pertaining to the number of firefighter or law enforcement agencies participating in CIT training, the reports to the department shall include the information specified in subsection (10) of this section.
- (10) The department shall aggregate all reports from firefighter or law enforcement agencies under subsection (9) of this section and submit nonidentifying statewide information to the Justice and Public Safety Cabinet, the Criminal Justice Council, the Cabinet for Health and Family Services, and the Interim Joint Committee on Health ~~Services and Welfare~~ by December 1, 2008, and annually thereafter. The report shall include but not be limited to:
- (a) The number of firefighters or law enforcement officers trained per agency;
 - (b) Firefighter or law enforcement responses to persons with mental illness, substance use disorders, intellectual disabilities, developmental disabilities, and dual diagnoses;
 - (c) Incidents of harm to the firefighter or law enforcement officer or to the citizen;

- (d) The number of times physical force was required and the type of physical force used; and
 - (e) The outcome of the encounters that may include but not be limited to incarceration or hospitalization.
- (11) To implement the requirements of subsections (2) to (5) and (8) to (10) of this section, the department may use public or private funds as available and may develop a contract with a nonprofit entity that is a Kentucky statewide mental health advocacy organization that has a minimum of five (5) years of experience in implementation of the CIT training program in Kentucky.
- (12) The Cabinet for Health and Family Services shall create a telephonic behavioral health jail triage system to screen prisoners for mental health risk issues, including suicide risk. The triage system shall be designed to give the facility receiving and housing the prisoner an assessment of his or her mental health risk, with the assessment corresponding to recommended protocols for housing, supervision, and care which are designed to mitigate the mental health risks identified by the system. The triage system shall consist of:
- (a) A screening instrument which the personnel of a facility receiving a prisoner shall utilize to assess inmates for mental health, suicide, intellectual disabilities, and acquired brain injury risk factors; and
 - (b) A continuously available toll-free telephonic triage hotline staffed by a qualified mental health professional which the screening personnel may utilize if the screening instrument indicates an increased mental health risk for the assessed prisoner.
- (13) In creating and maintaining the telephonic behavioral health jail triage system, the cabinet shall consult with:
- (a) The Department of Corrections;
 - (b) The Kentucky Jailers Association; and
 - (c) The regional community services programs for mental health or individuals with an intellectual disability created under KRS 210.370 to 210.460.
- (14) The cabinet may delegate all or a portion of the operational responsibility for the triage system to the regional community services programs for mental health or individuals with an intellectual disability created under KRS 210.370 to 210.460 if the regional program agrees and the cabinet remains responsible for the costs of delegated functions.
- (15) The cabinet shall design into the implemented triage system the ability to screen and assess prisoners who communicate other than in English or who communicate other than through voice.
- (16) The cost of operating the telephonic behavioral health jail triage system shall be borne by the cabinet.
- (17) Records generated under this section shall be treated in the same manner and with the same degree of confidentiality as other medical records of the prisoner.
- (18) Unless the prisoner is provided with an attorney during the screening and assessment, any statement made by the prisoner in the course of the screening or assessment shall not be admissible in a criminal trial of the prisoner, unless the trial is for a crime committed during the screening and assessment.
- (19) The cabinet may, after consultation with those entities set out in subsection (13) of this section, promulgate administrative regulations for the operation of the telephonic behavioral health jail triage system and the establishment of its recommended protocols for prisoner housing, supervision, and care.

➔Section 19. KRS 210.366 is amended to read as follows:

- (1) As used in this section:
- (a) "Board" means the Kentucky Board of Social Work, Kentucky Board of Licensure of Marriage and Family Therapists, Kentucky Board of Licensed Professional Counselors, Kentucky Board of Licensure for Pastoral Counselors, Kentucky Board of Alcohol and Drug Counselors, Kentucky Board of Examiners of Psychology, and Kentucky Board of Licensure for Occupational Therapy; and
 - (b) "Training program in suicide assessment, treatment, and management" means an empirically supported training program approved by the boards that contains suicide assessment including screening and referral, suicide treatment, and suicide management. A board may approve a training program that excludes one (1) of the elements if the element is inappropriate for the profession in question or inappropriate for the level of licensure or credentialing of that profession based on the profession's scope of practice. A training program that includes only screening and referral elements shall be at least

three (3) hours in length. All other training programs approved under this section shall be at least six (6) hours in length.

- (2) Beginning January 1, 2015, each of the following professionals certified or licensed under KRS Title XXVI shall, at least once every six (6) years, complete a training program in suicide assessment, treatment, and management that is approved, in administrative regulations, by the respective boards:
- (a) A social worker, marriage and family therapist, professional counselor, or pastoral counselor certified or licensed under KRS Chapter 335;
 - (b) An alcohol and drug counselor licensed or certified under KRS Chapter 309, and an alcohol and drug peer support specialist registered under KRS Chapter 309;
 - (c) A psychologist licensed or certified under KRS Chapter 319; and
 - (d) An occupational therapist licensed under KRS Chapter 319A.
- (3) (a) Except as provided in paragraph (b) of this subsection, a professional listed in subsection (2) of this section must complete the first training required by this section by July 2016.
- (b) A professional listed in subsection (2) of this section applying for initial licensure, registration, or certification on or after June 25, 2013, may delay completion of the first training required by this section for six (6) years after initial licensure, registration, or certification if he or she can demonstrate successful completion of a six (6) hour academic training program in suicide assessment, treatment, and management that:
1. Was completed no more than six (6) years prior to the application for initial licensure, registration, or certification; and
 2. Is listed on the best practices registry of the American Foundation for Suicide Prevention and the Suicide Prevention Resource Center.
- (4) The hours spent completing a training program in suicide assessment, treatment, and management under this section count toward meeting any applicable continuing education requirements for each profession.
- (5) A board may, by administrative regulation, specify minimum training and experience that is sufficient to exempt a professional from the training requirements in subsection (2) of this section.
- (6) (a) The cabinet shall develop a model list of training programs in suicide assessment, treatment, and management.
- (b) When developing the model list, the cabinet shall:
1. Consider suicide assessment, treatment, and management training programs of at least six (6) hours in length listed on the best practices registry of the American Foundation for Suicide Prevention and the Suicide Prevention Resource Center; and
 2. Consult with the boards, public and private institutions of higher education, experts in suicide assessment, treatment, and management, and affected professional associations.
- ~~[(c) The cabinet shall report the model list of training programs to the Interim Joint Committee on Health and Welfare no later than December 15, 2014.]~~
- (7) Nothing in this section may be interpreted to expand or limit the scope of practice of any profession regulated under KRS Title XXVI.
- (8) The cabinet and the boards affected by this section shall adopt any administrative regulations necessary to implement this section.
- ➔Section 20. KRS 210.368 is amended to read as follows:
- (1) As used in this section:
- (a) "Cabinet" means the Cabinet for Health and Family Services;
 - (b) "CMHC" means a community mental health center;
 - (c) "Fund" means the mobile crisis services fund; and

- (d) "Mobile unit" means any vehicle which a CMHC uses to travel within its region to provide community services for Kentuckians who experience issues with mental health, developmental and intellectual disabilities, and substance use disorder.
- (2) (a) The mobile crisis services fund is hereby established within the cabinet to provide loans to CMHCs for:
 - 1. Increasing access to mental health services; and
 - 2. Providing services to individuals who lack sufficient access to transportation and who are:
 - a. Residing in rural areas;
 - b. Residing in homeless shelters; or
 - c. Disadvantaged mentally, physically, or economically.
- (b) Any loan issued by the cabinet shall not exceed a five (5) year term and the interest rate shall not exceed one percent (1%).
- (3) The cabinet shall:
 - (a) Determine the terms and conditions of each loan, including the repayment to be deposited back in the fund for issuance of future loans to other CMHCs;
 - (b) Review and adjudicate applications submitted by CMHCs that apply for a loan;
 - (c) Monitor the performance of each CMHC in the program; and
 - (d) By December 1, 2022, and by each December 1 thereafter, report to the Interim Joint Committee on Health~~, Welfare, and Family~~ Services information about each CMHC in the program, including:
 - 1. The name and location of each CMHC that received a loan;
 - 2. The amount of principal originally loaned; and
 - 3. How each CMHC used the funds.
- (4) In order to apply for loan, a CMHC shall:
 - (a) Submit an application to the cabinet;
 - (b) Agree to use the funds for the purchase, operation, or establishment of mobile units; and
 - (c) Agree to provide services to individuals who lack sufficient access to transportation and who are:
 - 1. Residing in rural areas;
 - 2. Residing in homeless shelters; or
 - 3. Disadvantaged mentally, physically, or economically.
- (5) (a) The fund created in subsection (2) of this section shall be a trust and agency account.
- (b) The fund shall be administered by the cabinet.
- (c) The fund shall include moneys appropriated by the General Assembly, contributions, donations, gifts, or federal funds.
- (d) Moneys in the fund shall be used by the cabinet to administer this section.
- (e) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year.
- (f) Interest earned on any moneys in the fund shall accrue to the fund.
- (g) Moneys deposited in the fund are hereby appropriated for the sole purpose of providing loans to CMHCs.
- (6) The appropriation provided by the General Assembly for fiscal years 2022-2023 and 2023-2024 for mobile crisis services shall be considered startup funds to support the establishment of additional mobile crisis units and shall only be appropriated once.
- (7) The Cabinet for Health and Family Services may promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

➔Section 21. KRS 211.027 is amended to read as follows:

The Cabinet for Health and Family Services shall promulgate reasonable rules and regulations to effectuate the purposes of KRS 213.101 and 213.106 and KRS 311.710 to 311.810, which shall be submitted to the Legislative Research Commission in a manner prescribed in KRS Chapter 13A; the Legislative Research Commission shall refer said rules and regulations to the Interim Committee on Health ~~Services and Welfare~~ for the purpose of approval or disapproval.

➔Section 22. KRS 211.297 is amended to read as follows:

- (1) The statewide Palliative Care Consumer and Professional Information and Education Program is hereby established within the cabinet.
- (2) The goals of the Palliative Care Consumer and Professional Information and Education Program shall be to maximize the effectiveness of palliative care initiatives throughout the Commonwealth by ensuring that comprehensive and accurate information and education about palliative care are available to the public, health care providers, and health facilities.
- (3) The cabinet shall publish on its ~~website~~ information and resources, including links to external resources, about palliative care for the public, health care providers, and health facilities. This shall include but not be limited to:
 - (a) Continuing education opportunities for health care providers;
 - (b) Information about palliative care delivery in the home, primary, secondary, and tertiary environments;
 - (c) Best practices for palliative care delivery; and
 - (d) Consumer educational materials and referral information for palliative care, including hospice.
- (4)
 - (a) The council shall have the authority to review, evaluate, and make recommendations regarding all elements of the Palliative Care Consumer and Professional Information and Education Program, the content of the ~~website~~ information and resources described in subsection (3) of this section, and best practices for palliative care delivery and any grants to develop or implement them.
 - (b) Any evaluations or recommendations shall require the affirmative vote in person, by electronic means, or by proxy of three-fourths (3/4) of the voting members of the council.
 - (c) Not later than July 1, 2020, and annually thereafter, the council shall submit a report on its findings and recommendations to the commissioner of the Department for Public Health and to the Interim Joint Committee on Health ~~and Welfare and Family~~ Services.

➔Section 23. KRS 211.577 is amended to read as follows:

- (1) The Kentucky Rare Disease Advisory Council shall:
 - (a) Act as the advisory body on rare diseases to the General Assembly, the Governor, and to all relevant state and private agencies that provide services to, or are charged with the care of, individuals with rare diseases;
 - (b) Coordinate its duties with those community-based organizations and private-sector institutions within the state for the purpose of ensuring greater cooperation regarding the research, diagnosis, and treatment of rare diseases. The coordination shall require, when appropriate:
 1. Disseminating the outcomes of the advisory council's research, identified best practices, and policy recommendations; and
 2. Utilizing common research collection and dissemination procedures;
 - (c) Research and determine the most appropriate methods to collect thorough and complete information on rare diseases in Kentucky and other information as the council deems necessary and appropriate to collect;
 - (d) Research and identify priorities relating to the quality, cost-effectiveness, and access to treatment and services provided to persons with rare diseases, and develop related policy recommendations;
 - (e) Identify best practices for rare disease care from other states and at the national level that may improve rare disease care in Kentucky;
 - (f) Develop effective strategies to raise public awareness of rare diseases in Kentucky;

- (g) Ensure that the duties of the council are carried out in a manner that is coordinated and compatible with similar research being conducted at the state and federal levels;
 - (h) In conjunction with the state's medical schools, the state's schools of public health, and hospitals in the state that provide care to persons diagnosed with a rare disease, develop a list of existing, publicly accessible resources on research, diagnosis, treatment, and education relating to rare diseases; and
 - (i) Report biennially on its activities, findings, and recommendations relating to the quality, cost-effectiveness, and access to treatment and services for persons with rare diseases in Kentucky to the Governor, the Cabinet for Health and Family Services, and the General Assembly.
- (2) Upon receipt of the council's biennial report, the Governor and Cabinet for Health and Family Services shall within ninety (90) days issue a written response to the council detailing its efforts to improve state policies pertaining to the identification, treatment, and care of rare diseases.
 - (3) Upon receipt of the council's biennial report, the Interim Joint Committee on Health ~~and Welfare and Family~~ Services shall within one hundred twenty (120) days convene a hearing on issues pertaining to the identification, treatment, and care of rare diseases identified by the council in its report.

➔Section 24. KRS 211.684 is amended to read as follows:

- (1) For the purposes of KRS Chapter 211:
 - (a) "Child fatality" means the death of a person under the age of eighteen (18) years;
 - (b) "Local child and maternal fatality response team" and "local team" means a community team composed of representatives of agencies, offices, and institutions that investigate child and maternal deaths, including but not limited to, coroners, social service workers, medical professionals, law enforcement officials, and Commonwealth's and county attorneys; and
 - (c) "Maternal fatality" means the death of a woman within one (1) year of giving birth.
- (2) The Department for Public Health may establish a state child and maternal fatality review team. The state team may include representatives of public health, social services, law enforcement, prosecution, coroners, health-care providers, and other agencies or professions deemed appropriate by the commissioner of the department.
- (3) If a state team is created, the duties of the state team may include the following:
 - (a) Develop and distribute a model protocol for local child and maternal fatality response teams for the investigation of child and maternal fatalities;
 - (b) Facilitate the development of local child and maternal fatality response teams which may include, but is not limited to, providing joint training opportunities and, upon request, providing technical assistance;
 - (c) Review and approve local protocols prepared and submitted by local teams;
 - (d) Receive data and information on child and maternal fatalities and analyze the information to identify trends, patterns, and risk factors;
 - (e) Evaluate the effectiveness of prevention and intervention strategies adopted; and
 - (f) Recommend changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards which may facilitate strategies for prevention and reduce the number of child and maternal fatalities.
- (4) The department shall prepare an annual report to be submitted no later than November 1 of each year to the Governor, the Interim Joint Committee on *Families and Children*~~[Health, Welfare, and Family Services]~~, the Chief Justice of the Kentucky Supreme Court, and to be made available to the citizens of the Commonwealth. The report shall include a statistical analysis, that include the demographics of race, income, and geography, of the incidence and causes of child and maternal fatalities in the Commonwealth during the past fiscal year and recommendations for action. The report shall not include any information which would identify specific child and maternal fatality cases.

➔Section 25. KRS 214.544 is amended to read as follows:

- (1) A Colon Cancer Screening and Prevention Advisory Committee shall be established. The advisory committee shall include:
 - (a) One (1) member of the House of Representatives who shall be appointed by the Speaker of the House;

- (b) One (1) member of the Senate who shall be appointed by the President of the Senate;
- (c) The deputy commissioner of the Department for Public Health;
- (d) The commissioner of the Department of Insurance, or his or her designee;
- (e) The commissioner of the Department for Medicaid Services, or his or her designee;
- (f) Two (2) at-large members who shall be appointed by the Governor;
- (g) One (1) member who shall be appointed by the Governor from a list of three (3) names provided by the American Cancer Society;
- (h) The director of the Kentucky Cancer Program at the University of Kentucky;
- (i) The director of the Kentucky Cancer Program at the University of Louisville;
- (j) The director of the Kentucky Cancer Registry;
- (k) The director of the Colon Cancer Prevention Project;
- (l) The chair of Kentucky African Americans Against Cancer; and
- (m) The director of the Kentucky Cancer Consortium.

Members of the advisory committee shall be appointed for a term of four (4) years.

- (2) (a) Members appointed under subsection (1)(a) to (g) of this section shall be appointed as follows:
 - 1. Members shall be appointed for a term of four (4) years, except as provided in subparagraph 2. of this paragraph;
 - 2. The initial appointments shall be for a period of two (2) years; thereafter, the appointments shall be for a term of four (4) years; and
 - 3. Members shall not serve more than two (2) terms of four (4) years.
- (b) Members serving under subsection (1)(h) to (m) of this section shall serve by virtue of their positions and shall not be subject to term limits.
- (3) The chair of the advisory committee shall be elected from the membership of the advisory committee to serve for a two (2) year term. A member of the advisory committee may designate an alternate to attend meetings in his or her place.
- (4) The advisory committee may add members from other organizations as deemed appropriate.
- (5) The advisory committee shall provide recommendations for the overall implementation and conduct of the Colon Cancer Screening and Prevention Program.
- (6) The advisory committee shall establish and provide oversight for a colon cancer screening public awareness campaign. The Cabinet for Health and Family Services shall contract with the Kentucky Cancer Consortium at the University of Kentucky to provide the required support. The amount of the contract shall not be included in the base budget of the university as used by the Council on Postsecondary Education in determining the funding formula for the university.
- (7) The Colon Cancer Screening and Prevention Advisory Committee shall provide an annual report on implementation and outcomes from the Colon Cancer Screening and Prevention Program and recommendations to the Legislative Research Commission, the Interim Joint Committee on Health, ~~Welfare, and Family~~ Services, the Interim Joint Committee on Appropriations and Revenue, the Governor, the secretary of the Cabinet for Health and Family Services, and the commissioner of the Department for Public Health.
- (8) The Kentucky Cancer Program, jointly administered by the University of Kentucky and the University of Louisville, shall establish a colon cancer screening, education, and outreach program in each of the state area development districts. The colon cancer screening, education, and outreach program shall focus on individuals who lack access to colon cancer screening. The Cabinet for Health and Family Services shall contract with the University of Louisville and the University of Kentucky to provide the required support. The amount of the contract shall not be included in the base budgets of the universities as used by the Council on Postsecondary Education in determining the funding formula for the universities.

➔Section 26. KRS 214.556 is amended to read as follows:

- (1) There is hereby established within the Kentucky cancer program the Kentucky Cancer Registry and the cancer patient data management system for the purpose of providing accurate and up-to-date information about cancer in Kentucky and facilitating the evaluation and improvement of cancer prevention, screening, diagnosis, therapy, rehabilitation, and community care activities for citizens of the Commonwealth. The cancer patient data management system shall be administered by the Lucille Parker Markey Cancer Center.
- (2) Each licensed health facility which provides diagnostic services, or diagnostic services and treatment, or treatment to cancer patients shall report to the Kentucky Cancer Registry, through the cancer patient data management system and in a format prescribed by the Kentucky Cancer Registry, each case of cancer seen at that health facility. Failure to comply may be cause for assessment of an administrative fine for the health facility, the same as for violation of KRS 216B.250.
- (3) Each health facility shall grant to the cancer registry access to all records which would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or status of any identified cancer patient. Hospitals actively participating and enrolled in the cancer patient data management system of the Kentucky Cancer Program as of July 13, 1990, shall be considered to be in compliance with this section. The Lucille Parker Markey Cancer Center shall provide staff assistance in compiling and reporting required information to hospitals which treat a low volume of patients.
- (4) No liability of any kind or character for damages or other relief shall arise or be enforced against any licensed health facility by reason of having provided the information or material to the Kentucky Cancer Registry pursuant to the requirements of this section.
- (5) The identity of any person whose condition or treatment has been reported to the Kentucky Cancer Registry shall be confidential, except that:
 - (a) The Kentucky Cancer Registry may exchange patient-specific data with any other cancer control agency or clinical facility for the purpose of obtaining information necessary to complete a case record, but the agency or clinical facility shall not further disclose such personal data; and
 - (b) The Kentucky Cancer Registry may contact individual patients if necessary to obtain follow-up information which is not available from the health facility.
- (6) All information, interviews, reports, statements, memoranda, or other data furnished by reason of this section, expressly including all portions, subsets, extracts, or compilations of the data as well as any findings or conclusions resulting from those studies, shall be privileged and shall not be considered public records under KRS 61.870 to 61.884. The Kentucky Cancer Registry may determine that certain extracts, subsets, or compilations of data do not reveal privileged information and may be published or otherwise shared to further the public health goals set forth herein.
- (7) The Kentucky Cancer Registry shall make periodic reports of its data and any related findings and recommendations to the Legislative Research Commission, the Interim Joint Committees on Appropriations and Revenue and ~~on Health Services and Welfare~~, the Governor, the Cabinet for Health and Family Services, the reporting health facility, and other appropriate governmental and nongovernmental cancer control agencies whose intent it is to reduce the incidence, morbidity, and mortality of cancer. The Kentucky Cancer Registry may conduct analyses and studies as are indicated to advance cancer control in the Commonwealth, either directly or by confidentially sharing data with third parties.

➔Section 27. KRS 214.564 is amended to read as follows:

- (1) A Lung Cancer Screening Advisory Committee is hereby established. The advisory committee shall include:
 - (a) One (1) member of the House of Representatives who shall be appointed by and serve at the pleasure of the Speaker of the House;
 - (b) One (1) member of the Senate who shall be appointed by and serve at the pleasure of the President of the Senate;
 - (c) The deputy commissioner of the Department for Public Health;
 - (d) The commissioner of the Department of Insurance, or his or her designee;
 - (e) The commissioner of the Department for Medicaid Services, or his or her designee;
 - (f) Two (2) at-large members who shall be appointed by the Governor;

- (g) One (1) member who shall be appointed by the Governor from a list of three (3) names provided by the American Cancer Society;
 - (h) The director of the Kentucky Cancer Program at the University of Kentucky;
 - (i) The director of the Kentucky Cancer Program at the University of Louisville;
 - (j) The director of the Kentucky Cancer Registry;
 - (k) The director of the American Lung Association of Kentucky;
 - (l) The chair of Kentucky African Americans Against Cancer; and
 - (m) The director of the Kentucky Cancer Consortium.
- (2) The chair of the advisory committee shall be elected from the membership of the advisory committee to serve for a two (2) year term. A member of the advisory committee may designate an alternate to attend meetings in his or her place.
- (3) The advisory committee may add members of subject matter expertise from other organizations as deemed appropriate.
- (4) The advisory committee shall:
- (a) Review relevant data, clinical guidelines, and best practices for lung cancer screening;
 - (b) Provide recommendations for the overall implementation and conduct of the program with the goal of improving access to high-quality lung cancer screening;
 - (c) Establish and provide oversight for a lung cancer screening, public awareness, education, and outreach program to focus on individuals who are eligible for lung cancer screening; and
 - (d) Provide an annual report on implementation and outcomes from the program and recommendations to the Legislative Research Commission, the Interim Joint Committee on Health, ~~Welfare, and Family~~ Services, the Interim Joint Committee on Appropriations and Revenue, the Governor, the secretary of the Cabinet for Health and Family Services, and the commissioner of the Department for Public Health.

➔Section 28. KRS 214.640 is amended to read as follows:

- (1) The Cabinet for Health and Family Services may create, to the extent permitted by available staffing and funding, an HIV and AIDS Planning and Advisory Council to consist of no more than thirty (30) members, for the purpose of advising the cabinet on the formulation of HIV and AIDS policy. Membership on the committee shall be drawn from the following:
- (a) The commissioner of the Department for Public Health;
 - (b) The commissioner of the Department for Medicaid Services;
 - (c) Representatives of other state agencies or boards that provide services to clients of HIV or AIDS services or that provide education to professionals who come into contact with HIV or AIDS clients, as designated by the Governor;
 - (d) Physicians representing different geographic regions of the state;
 - (e) HIV or AIDS clients; and
 - (f) Representatives of community-based organizations from different geographic regions of the state.

To the extent possible, membership of the council shall reflect the epidemiology of the HIV/AIDS epidemic.

- (2) The members designated under paragraphs (a) to (c) of subsection (1) of this section shall serve for the duration of service in their offices, subject to removal for cause by the Governor. These members shall not be paid for attending council meetings but may receive reimbursement of expenses.
- (3) The members serving under paragraphs (d) to (f) of subsection (1) of this section shall be appointed by the cabinet from lists submitted by the appropriate licensing entities of the profession involved, by the cabinet, and by community-based organizations. These members shall serve for a term of four (4) years and may be reappointed, but the members shall not serve for more than two (2) consecutive terms.
- (4) The chair of the council shall be elected from the membership serving under paragraphs (d) to (f) of subsection (1) of this section.

- (5) The functions of the council shall include but shall not be limited to:
- (a) Reporting its findings to the cabinet and monitoring the responsiveness of the cabinet to insure that the council's recommendations are being followed;
 - (b) Exploring the feasibility, design, cost, and necessary funding for centers of excellence to deliver comprehensive, coordinated medical and related care to all people with HIV or AIDS in the Commonwealth based on national clinical guidelines and practice standards. Coordinated medical care shall include but not be limited to access to:
 - 1. AIDS primary care;
 - 2. Drug therapy;
 - 3. Specialists' care, including psychiatric and other mental health providers;
 - 4. Case management services;
 - 5. Dental care;
 - 6. Chemical dependency treatment; and
 - 7. Basic needs, including but not limited to housing and food;
 - (c) Assessing resources and gaps in services provided for persons with HIV or AIDS;
 - (d) Subdividing into necessary subcommittees. One (1) subcommittee may be formed that will consist solely of persons living with HIV or AIDS. This subcommittee shall make those recommendations as it deems necessary to the council, including recommendations on effective peer-based prevention programs; and
 - (e) Reporting its findings and recommendations to the General Assembly and the Interim Joint Committee on Health ~~Services and Welfare~~ by September 1, 2001, and by September 1 of each year thereafter.

➔Section 29. KRS 214.645 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish a system for reporting, by the use of the person's name, of all persons who test positive for the human immunodeficiency virus (HIV) infection. The reporting shall include the data including, but not limited to, CD4 count and viral load, and other information that are necessary to comply with the confidentiality and reporting requirements of the most recent edition of the Centers for Disease Control and Prevention's (CDC) Guidelines for National Human Immunodeficiency Virus Case Surveillance. Anonymous testing shall remain as an alternative. If less restrictive data identifying requirements are identified by the CDC, the cabinet shall evaluate the new requirements for implementation.
- (2) The reporting system established under subsection (1) of this section shall:
 - (a) Use the same confidential name-based approach for HIV surveillance that is used for AIDS surveillance by the cabinet;
 - (b) Attempt to identify all modes of HIV transmission, unusual clinical or virologic manifestations, and other cases of public health importance;
 - (c) Require collection of the names and data from all private and public sources of HIV-related testing and care services; and
 - (d) Use reporting methods that match the CDC's standards for completeness, timeliness, and accuracy, and follow up, as necessary, with the health care provider or the provider's designee making the report to verify completeness, timeliness, and accuracy.
- (3) Authorized surveillance staff designated by the cabinet shall:
 - (a) Match the information from the reporting system to other public health databases, wherever possible, to limit duplication and to better quantify the extent of HIV infection in the Commonwealth;
 - (b) Conduct a biennial assessment of the HIV and AIDS reporting systems, insure that the assessment is available for review by the public and any state or federal agency, and forward a copy of the assessment to the Legislative Research Commission and the Interim Joint Committee on Health ~~Services and Welfare~~;

- (c) Document the security policies and procedures and insure their availability for review by the public or any state or federal agency;
 - (d) Minimize storage and retention of unnecessary paper or electronic reports and insure that related policies are consistent with CDC technical guidelines;
 - (e) Assure that electronic transfer of data is protected by encryption during transfer;
 - (f) Provide that records be stored in a physically secluded area and protected by coded passwords and computer encryption;
 - (g) Restrict access to data a minimum number of authorized surveillance staff who are designated by a responsible authorizing official, who have been trained in confidentiality procedures, and who are aware of penalties for unauthorized disclosure of surveillance information;
 - (h) Require that any other public health program that receives data has appropriate security and confidentiality protections and penalties;
 - (i) Restrict use of data, from which identifying information has been removed, to cabinet-approved research, and require all persons with this use to sign confidentiality statements;
 - (j) Prohibit release of any names or any other identifying information that may have been received in a report to any person or organization, whether public or private, except in compliance with federal law or consultations with other state surveillance programs and reporting sources. Under no circumstances shall a name or any identifying information be reported to the CDC; and
 - (k) Immediately investigate any report of breach of reporting, surveillance, or confidentiality policy, report the breach to the CDC, develop recommendations for improvements in security measure, and take appropriate disciplinary action for any documented breach.
- (4) The cabinet shall require any physician, advanced practice registered nurse, designee, or medical laboratory that receives a report of a positive test for the human immunodeficiency virus to report that information by reference to the name in accordance with the procedure for establishing name reporting required by the cabinet in an administrative regulation.

➔Section 30. KRS 216.2929 is amended to read as follows:

- (1) (a) The Cabinet for Health and Family Services shall make available on its ~~website~~^[Web site] information on charges for health-care services at least annually in understandable language with sufficient explanation to allow consumers to draw meaningful comparisons between every hospital and ambulatory facility, differentiated by payor if relevant, and for other provider groups as relevant data becomes available.
- (b) Any charge information compiled and reported by the cabinet shall include the median charge and other percentiles to describe the typical charges for all of the patients treated by a provider and the total number of patients represented by all charges, and shall be risk-adjusted.
- (c) The report shall clearly identify the sources of data used in the report and explain limitations of the data and why differences between provider charges may be misleading. Every provider that is specifically identified in any report shall be given thirty (30) days to verify the accuracy of its data prior to public release and shall be afforded the opportunity to submit comments on its data that shall be included on the ~~website~~^[Web site] and as part of any printed report of the data.
- (d) The cabinet shall only provide linkages to organizations that publicly report comparative-charge data for Kentucky providers using data for all patients treated regardless of payor source, which may be adjusted for outliers, is risk-adjusted, and meets the requirements of paragraph (c) of this subsection.
- (2) (a) The cabinet shall make information available on its ~~website~~^[Web site] at least annually describing quality and outcome measures in understandable language with sufficient explanations to allow consumers to draw meaningful comparisons between every hospital and ambulatory facility in the Commonwealth and other provider groups as relevant data becomes available.
- (b) 1. The cabinet shall utilize only national quality indicators that have been endorsed and adopted by the Agency for Healthcare Research and Quality, the National Quality Forum, or the Centers for Medicare and Medicaid Services; or

2. The cabinet shall provide linkages only to the following organizations that publicly report quality and outcome measures on Kentucky providers:
 - a. The Centers for Medicare and Medicaid Services;
 - b. The Agency for Healthcare Research and Quality;
 - c. The Joint Commission; and
 - d. Other organizations that publicly report relevant outcome data for Kentucky providers.
- (c) The cabinet shall utilize or refer the general public to only those nationally endorsed quality indicators that are based upon current scientific evidence or relevant national professional consensus and have definitions and calculation methods openly available to the general public at no charge.
- (3) Any report the cabinet disseminates or refers the public to shall:
 - (a) Not include data for a provider whose caseload of patients is insufficient to make the data a reliable indicator of the provider's performance;
 - (b) Meet the requirements of subsection (1)(c) of this section;
 - (c) Clearly identify the sources of data used in the report and explain the analytical methods used in preparing the data included in the report; and
 - (d) Explain any limitations of the data and how the data should be used by consumers.
- (4) The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year, on the special health needs of the minority population in the Commonwealth as compared to the population in the Commonwealth as compared to the population at large. The report shall contain an overview of the health status of minority Kentuckians, shall identify the diseases and conditions experienced at disproportionate mortality and morbidity rates within the minority population, and shall make recommendations to meet the identified health needs of the minority population.
- (5) The report required under subsection (4) of this section shall be submitted to the Interim Joint Committees on Appropriations and Revenue and Health ~~Services~~ ~~and Welfare~~ and to the Governor.

➔Section 31. KRS 216B.457 is amended to read as follows:

 - (1) A certificate of need shall be required for all Level II psychiatric residential treatment facilities. The need criteria for the establishment of Level II psychiatric residential treatment facilities shall be in the state health plan.
 - (2) An application for a certificate of need for Level II psychiatric residential treatment facilities shall not exceed fifty (50) beds. Level II facility beds may be located in a separate part of a psychiatric hospital, a separate part of an acute care hospital, or a Level I psychiatric residential treatment facility if the Level II beds are located on a separate floor, in a separate wing, or in a separate building. A Level II facility shall not refuse to admit a patient who meets the medical necessity criteria and facility criteria for Level II facility services. Nothing in this section and KRS 216B.450 and 216B.455 shall be interpreted to prevent a psychiatric residential treatment facility from operating both a Level I psychiatric residential treatment facility and a Level II psychiatric residential treatment facility.
 - (3) The application for a Level II psychiatric residential treatment facility certificate of need shall include formal written agreements of cooperation that identify the nature and extent of the proposed working relationship between the proposed Level II psychiatric residential treatment facility and each of the following agencies, organizations, or entities located in the service area of the proposed facility:
 - (a) Regional interagency council for children with emotional disability or severe emotional disability created under KRS 200.509;
 - (b) Community board for mental health or individuals with an intellectual disability established under KRS 210.380;
 - (c) Department for Community Based Services;
 - (d) Local school districts;
 - (e) At least one (1) psychiatric hospital; and
 - (f) Any other agency, organization, or entity deemed appropriate by the cabinet.

- (4) The application for a certificate of need shall include:
- (a) The specific number of beds proposed for each age group and the specific, specialized program to be offered;
 - (b) An inventory of current services in the proposed service area; and
 - (c) Clear admission and discharge criteria, including age, sex, and other limitations.
- (5) All Level II psychiatric residential treatment facilities shall comply with the licensure requirements as set forth in KRS 216B.105.
- (6) All Level II psychiatric residential treatment facilities shall be certified by the Joint Commission, the Council on Accreditation of Services for Families and Children, or any other accrediting body with comparable standards that are recognized by the Centers for Medicare and Medicaid Services.
- (7) A Level II psychiatric residential treatment facility shall be under the clinical supervision of a qualified mental health professional with training or experience in mental health treatment of children and youth.
- (8) Treatment services shall be provided by qualified mental health professionals or qualified mental health personnel. Individual staff who will provide educational programs shall meet the employment standards outlined by the Kentucky Board of Education and the Education Professional Standards Board.
- (9) A Level II psychiatric residential treatment facility shall meet the following requirements with regard to professional staff:
- (a) A licensed psychiatrist, who is board-eligible or board-certified as a child or adult psychiatrist, shall be employed or contracted to meet the treatment needs of the residents and the functions that shall be performed by a psychiatrist;
 - (b) If a Level II psychiatric residential treatment facility has residents ages twelve (12) and under, the licensed psychiatrist shall be a board-eligible or board-certified child psychiatrist; and
 - (c) The licensed psychiatrist shall be present in the facility to provide professional services to the facility's residents at least weekly.
- (10) A Level II psychiatric residential treatment facility shall:
- (a) Prepare a written staffing plan that is tailored to meet the needs of the specific population of children and youth that will be admitted to the facility based on the facility's admission criteria. The written staffing plan shall include but not be limited to the following:
 1. Specification of the direct care per-patient staffing ratio that the facility shall adhere to during waking hours and during sleeping hours;
 2. Delineation of the number of direct care staff per patient, including the types of staff and the mix and qualifications of qualified mental health professionals and qualified mental health personnel, that shall provide direct care and will comprise the facility's per-patient staffing ratio;
 3. Specification of appropriate qualifications for individuals included in the per-patient staffing ratio by job description, education, training, and experience;
 4. Provision for ensuring compliance with its written staffing plan, and specification of the circumstances under which the facility may deviate from the per-patient staffing ratio due to patient emergencies, changes in patient acuity, or changes in patient census; and
 5. Provision for submission of the written staffing plan to the cabinet for approval as part of the facility's application for initial licensure.

No initial license to operate as a Level II psychiatric residential treatment facility shall be granted until the cabinet has approved the facility's written staffing plan. Once a facility is licensed, it shall comply with its approved written staffing plan and, if the facility desires to change its approved per-patient staffing ratio, it shall submit a revised plan and have the plan approved by the cabinet prior to implementation of the change;

- (b) Require full-time professional and direct care staff to meet the continuing education requirements of their profession or be provided with forty (40) hours per year of in-service training; and
- (c) Develop and implement a training plan for all staff that includes but is not limited to the following:

1. Behavior-management procedures and techniques;
 2. Physical-management procedures and techniques;
 3. First aid;
 4. Cardiopulmonary resuscitation;
 5. Infection-control procedures;
 6. Child and adolescent growth and development;
 7. Training specific to the specialized nature of the facility;
 8. Emergency and safety procedures; and
 9. Detection and reporting of child abuse and neglect.
- (11) A Level II psychiatric residential treatment facility shall require a criminal records check to be completed on all employees and volunteers. The employment or volunteer services of an individual shall be governed by KRS 17.165, with regard to a criminal records check. A new criminal records check shall be completed at least every two (2) years on each employee or volunteer.
- (12) (a) Any employee or volunteer who has committed or is charged with the commission of a violent offense as specified in KRS 439.3401, a sex crime specified in KRS 17.500, or a criminal offense against a victim who is a minor as specified in KRS 17.500 shall be immediately removed from contact with a child within the residential treatment center until the employee or volunteer is cleared of the charge.
- (b) An employee or volunteer under indictment, legally charged with felonious conduct, or subject to a cabinet investigation shall be immediately removed from contact with a child.
- (c) The employee or volunteer shall not be allowed to work with the child until a prevention plan has been written and approved by the cabinet, the person is cleared of the charge, or a cabinet investigation reveals an unsubstantiated finding, if the charge resulted from an allegation of child abuse, neglect, or exploitation.
- (d) Each employee or volunteer shall submit to a check of the central registry. An individual listed on the central registry shall not be a volunteer at or be employed by a Level II psychiatric residential treatment facility.
- (e) Any employee or volunteer removed from contact with a child pursuant to this subsection may, at the discretion of the employer, be terminated, reassigned to a position involving no contact with a child, or placed on administrative leave with pay during the pendency of the investigation or proceeding.
- (13) An initial treatment plan of care shall be developed and implemented for each resident, and the plan of care shall be based on initial history and ongoing assessment of the resident's needs and strengths, with an emphasis on active treatment, transition planning, and after-care services, and shall be completed within seventy-two (72) hours of admission.
- (14) A comprehensive treatment plan of care shall be developed and implemented for each resident, and the plan of care shall be based on initial history and ongoing assessment of the resident's needs and strengths, with an emphasis on active treatment, transition planning, and after-care services, and shall be completed within ten (10) calendar days of admission.
- (15) A review of the treatment plan of care shall occur at least every thirty (30) days following the first ten (10) days of treatment and shall include the following documentation:
- (a) Dated signatures of appropriate staff, parent, guardian, legal custodian, or conservator;
 - (b) An assessment of progress toward each treatment goal and objective with revisions as indicated; and
 - (c) A statement of justification for the level of services needed, including suitability for treatment in a less-restrictive environment and continued services.
- (16) A Level II psychiatric residential treatment facility shall provide or arrange for the provision of qualified dental, medical, nursing, and pharmaceutical care for residents. The resident's parent, guardian, legal custodian, or conservator may choose a professional for nonemergency services.
- (17) A Level II psychiatric residential treatment facility shall ensure that opportunities are provided for recreational activities that are appropriate and adapted to the needs, interests, and ages of the residents.

- (18) A Level II psychiatric residential treatment facility shall assist residents in the independent exercise of health, hygiene, and grooming practices.
- (19) A Level II psychiatric residential treatment facility shall assist each resident in securing an adequate allowance of personally owned, individualized, clean, and seasonal clothes that are the correct size.
- (20) A Level II psychiatric residential treatment facility shall assist, educate, and encourage each resident in the use of dental, physical, or prosthetic appliances or devices and visual or hearing aids.
- (21) The cabinet shall promulgate administrative regulations that include but are not limited to the following:
- (a) Establishing requirements for tuberculosis skin testing for staff of a Level II psychiatric residential treatment facility;
 - (b) Ensuring that accurate, timely, and complete resident assessments are conducted for each resident of a Level II psychiatric residential treatment facility;
 - (c) Ensuring that accurate, timely, and complete documentation of the implementation of a resident's treatment plan of care occurs for each resident of a Level II psychiatric residential treatment facility;
 - (d) Ensuring that an accurate, timely, and complete individual record is maintained for each resident of a Level II psychiatric residential treatment facility;
 - (e) Ensuring that an accurate, timely, and complete physical examination is conducted for each resident of a Level II psychiatric residential treatment facility;
 - (f) Ensuring accurate, timely, and complete access to emergency services is available for each resident of a Level II psychiatric residential treatment facility; and
 - (g) Ensuring that there is accurate, timely, and complete administration of medications for each resident of a Level II psychiatric residential treatment facility.
- (22) The cabinet shall, within ninety (90) days of July 15, 2010, promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and KRS 216B.450 and 216B.455. When promulgating the administrative regulations, the cabinet shall not consider only staffing ratios when evaluating the written staffing plan of an applicant, but shall consider the applicant's overall ability to provide for the needs of patients.
- (23) The cabinet shall report, no later than August 1 of each year, to the Interim Joint Committee on Health ~~Services and Welfare~~ regarding the implementation of this section and KRS 216B.450 and 216B.455. The report shall include but not be limited to information relating to resident outcomes, such as lengths of stay in the facility, locations residents were discharged to, and whether residents were readmitted to a Level II psychiatric residential treatment facility within a twelve (12) month period.

➔Section 32. KRS 260.032 is amended to read as follows:

The Commissioner of the Kentucky Department of Agriculture shall submit an annual report to the Interim Joint Committee on Health ~~Services and Welfare~~ and the Interim Joint Committee on Agriculture, which includes but is not limited to:

- (1) The amount of funding received for the Kentucky Farmers Market Nutrition Program;
- (2) The economic impact of the program;
- (3) Strategies implemented to market the program and improve nutrition; and
- (4) Statistics related to the number of individuals served and farmers' markets participating in the program.

➔Section 33. KRS 304.14-642 is amended to read as follows:

- (1) The Kentucky Long-Term Care Partnership Insurance Program is established as a partnership between the Department for Medicaid Services and the Department of Insurance to:
 - (a) Provide incentives for an individual to insure against the cost of providing for his or her long-term care needs;
 - (b) Increase utilization of long-term care insurance policies;
 - (c) Assist in alleviating the financial burden of Kentucky's Medicaid program by encouraging the use of private insurance; and

- (d) Provide a mechanism for individuals to qualify for Medicaid services for costs of long-term care without exhausting all of their assets and resources.
- (2) A long-term care partnership insurance policy shall:
 - (a) Provide coverage for expenses for at least twelve (12) months for each covered person on an expense-incurred, indemnity, or prepaid basis for one (1) or more long-term care services provided in a setting other than an acute care unit of a hospital;
 - (b) Be qualified under Section 7702B(b) of the Internal Revenue Code of 1986;
 - (c) Provide coverage for long-term care services for a policyholder who is a resident of a state with a qualified long-term care partnership program when coverage first became effective; and
 - (d) Not be issued prior to the effective date of an approved amendment to the State Medicaid Plan.
- (3) The Department of Insurance shall have responsibility to approve, pursuant to KRS 304.14-120, any long-term care partnership insurance policy available in Kentucky that meets and continues to meet all applicable federal and state laws and regulations. The state shall not impose any requirement affecting the terms or benefits of such a policy unless the state imposes such requirement on long-term care insurance policies without regard to whether the policy is covered under the partnership or is offered in connection with the partnership.
- (4) The Department of Insurance shall ensure that any agent who sells a long-term care partnership insurance policy can demonstrate an understanding of long-term care partnership insurance and how it relates to other public and private coverage of long-term care expenses. The Department for Medicaid Services shall provide consultation, materials, and other information to the Department of Insurance to enable the Department of Insurance to facilitate the development and issuance of uniform training materials for agents who sell long-term care insurance policies. The Department of Insurance may contract with another entity to conduct agent training and testing. Training and certification may be conducted at the expense of the insurance agent.
- (5) Within sixty (60) days of notice of approval of the amendment to the State Medicaid Plan required under KRS 205.619, the Department of Insurance shall promulgate an administrative regulation pursuant to KRS Chapter 13A to implement the Kentucky Long-Term Care Partnership Insurance Program.
- (6) The Department of Insurance and the Department for Medicaid Services shall report no later than September 30 each year to the Interim Joint Committee on Banking and Insurance and the Interim Joint Committee on Health ~~Services and Welfare~~ on the number of partnership insurance policies sold in Kentucky, utilization of the partnership insurance policies, and expenditures and cost savings associated with implementation, utilization, and maintenance of the partnership program. If national data reporting standards become available, the report submitted to the federal agency shall meet the requirements of this subsection.

➔Section 34. KRS 315.0351 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section:
 - (a) Every person or pharmacy located outside this Commonwealth which does business, physically or by means of the Internet, facsimile, phone, mail, or any other means, inside this Commonwealth within the meaning of KRS Chapter 315, shall hold a current pharmacy permit as provided in KRS 315.035(1) and (4) issued by the Kentucky Board of Pharmacy. The pharmacy shall be designated an "out-of-state pharmacy" and the permit shall be designated an "out-of-state pharmacy permit." The fee for the permit shall not exceed the current in-state pharmacy permit fee as provided under KRS 315.035;
 - (b) Every out-of-state pharmacy granted an out-of-state pharmacy permit by the board shall disclose to the board the location, names, and titles of all principal corporate officers and all pharmacists who are dispensing prescription drugs to residents of the Commonwealth. A report containing this information shall be made to the board on an annual basis and within thirty (30) days after any change of office, corporate officer, or pharmacist;
 - (c) Every out-of-state pharmacy granted an out-of-state pharmacy permit shall comply with all statutorily-authorized directions and requests for information from any regulatory agency of the Commonwealth and from the board in accordance with the provisions of this section. The out-of-state pharmacy shall maintain at all times a valid unexpired permit, license, or registration to conduct the pharmacy in compliance with the laws of the jurisdiction in which it is a resident. As a prerequisite to seeking a permit from the Kentucky Board of Pharmacy, the out-of-state pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the jurisdiction in which it is located. Thereafter, the out-of-state pharmacy granted a permit

shall submit to the Kentucky Board of Pharmacy a copy of any subsequent inspection report on the pharmacy conducted by the regulatory or licensing body of the jurisdiction in which it is located;

- (d) Every out-of-state pharmacy granted an out-of-state pharmacy permit by the board shall maintain records of any controlled substances or dangerous drugs or devices dispensed to patients in the Commonwealth so that the records are readily retrievable from the records of other drugs dispensed;
 - (e) Records for all prescriptions delivered into Kentucky shall be readily retrievable from the other prescription records of the out-of-state pharmacy;
 - (f) Each out-of-state pharmacy shall, during its regular hours of operation, but not less than six (6) days per week and for a minimum of forty (40) hours per week, provide a toll-free telephone service directly to the pharmacist in charge of the out-of-state pharmacy and available to both the patient and each licensed and practicing in-state pharmacist for the purpose of facilitating communication between the patient and the Kentucky pharmacist with access to the patient's prescription records. A toll-free number shall be placed on a label affixed to each container of drugs dispensed to patients within the Commonwealth;
 - (g) Each out-of-state pharmacy shall have a pharmacist in charge who is licensed to engage in the practice of pharmacy by the Commonwealth that shall be responsible for compliance by the pharmacy with the provisions of this section and for the distribution and sale of dialysate solutions and devices pursuant to subsection (2) of this section;
 - (h) Each out-of-state pharmacy shall comply with KRS 218A.202;
 - (i) Any out-of-state pharmacy that dispenses more than twenty-five percent (25%) of its total prescription volume as a result of an original prescription order received or solicited by use of the Internet, including but not limited to electronic mail, shall receive and display in every medium in which it advertises itself a seal of approval for the National Association of Boards of Pharmacy certifying that it is a Verified Internet Pharmacy Practice Site (VIPPS) or a seal certifying approval of a substantially similar program approved by the Kentucky Board of Pharmacy. VIPPS, or any other substantially similar accreditation, shall be maintained and remain current;
 - (j) Any out-of-state pharmacy doing business in the Commonwealth of Kentucky shall certify the percentage of its annual business conducted via the Internet and electronic mail and submit such supporting documentation as requested by the board, and in a form or application required by the board, when it applies for permit or renewal;
 - (k) Any pharmacy doing business within the Commonwealth of Kentucky shall use the address on file with the Kentucky Board of Pharmacy as the return address on the labels of any package shipped into or within the Commonwealth. The return address shall be placed on the package in a clear and prominent manner; and
 - (l) The Kentucky Board of Pharmacy may waive the permit requirements of this chapter for an out-of-state pharmacy that only does business within the Commonwealth of Kentucky in limited transactions.
- (2) (a) Only subsection (1)(g) of this section shall apply to the sale or distribution of dialysate solutions or devices necessary to perform home peritoneal kidney dialysis to patients with end-stage renal disease, if:
1. The dialysate solutions or devices are approved or cleared by the federal Food and Drug Administration, as required by federal law;
 2. The dialysate solutions or devices are lawfully held by a manufacturer or manufacturer's agent that is properly registered with or licensed by the board as a manufacturer, wholesale distributor, or third-party logistics provider under this chapter;
 3. The dialysate solutions or devices are held and delivered in their original, sealed packaging from a Food and Drug Administration-approved manufacturing facility;
 4. The dialysate solutions or devices are only delivered upon receipt of a physician's prescription by a Kentucky licensed pharmacy and the transmittal of an order from the Kentucky licensed pharmacy to the manufacturer or manufacturer's agent; and
 5. The manufacturer or manufacturer's agent delivers the dialysate solutions or devices directly to:

- a. A patient with end-stage renal disease or the patient's designee for the patient's self-administration of dialysis therapy; or
 - b. A health-care provider or institution for administration or delivery of dialysis therapy to a patient with end-stage renal disease.
- (b) 1. A manufacturer or manufacturer's agent who sells or distributes dialysate solutions or devices under this subsection shall employ or contract with a pharmacist who is licensed to engage in the practice of pharmacy by the Commonwealth to conduct a retrospective audit on ten percent (10%) of the orders processed by that manufacturer or manufacturer's agent each month.
 - 2. On or before February 1 of each year, an annual summary of the monthly audits shall be prepared and submitted to the board, in the form prescribed by the board.
 - 3. On or before June 1 of each year, the board shall compile the summaries of monthly audits into a single report and submit that report to the Interim Joint Committee on Health ~~and Welfare and Family~~ Services.
- (c) Prescriptions and records of delivery for dialysate solutions or devices sold or distributed under this subsection shall be maintained by the manufacturer or manufacturer's agent for a minimum of two (2) years and shall be made available to the board upon request.
 - (d) As used in this subsection, "dialysate solutions" means dextrose or icodextrin when used to perform home peritoneal kidney dialysis.
 - (e) The Kentucky Board of Pharmacy will retain oversight of the distribution of dialysate solutions and devices under this section.

➔Section 35. KRS 605.120 is amended to read as follows:

- (1) The cabinet is authorized to expend available funds to provide for the board, lodging, and care of children who would otherwise be placed in foster care or who are placed by the cabinet in a foster home or boarding home, or may arrange for payments or contributions by any local governmental unit, or public or private agency or organization, willing to make payments or contributions for such purpose. The cabinet may accept any gift, devise, or bequest made to it for its purposes.
- (2) The cabinet shall establish a reimbursement system, within existing appropriation amounts, for foster parents that comes as close as possible to meeting the actual cost of caring for foster children. The cabinet shall consider providing additional reimbursement for foster parents who obtain additional training, and foster parents who have served for an extended period of time. In establishing a reimbursement system, the cabinet shall, to the extent possible within existing appropriation amounts, address the additional cost associated with providing care to children with exceptional needs.
- (3) The cabinet shall review reimbursement rates paid to foster parents and shall issue a report upon request comparing the rates paid by Kentucky to the figures presented in the Expenditures on Children by Families Annual Report prepared by the United States Department of Agriculture and the rates paid to foster parents by other states. To the extent that funding is available, reimbursement rates paid to foster parents shall be increased on an annual basis to reflect cost of living increases.
- (4) The cabinet is encouraged to develop pilot projects both within the state system and in collaboration with private child caring agencies to test alternative delivery systems and nontraditional funding mechanisms.
- (5) (a) The cabinet shall track and analyze data on relative and fictive kin caregiver placements. The data shall include but not be limited to:
 - 1. Demographic data on relative and fictive kin caregivers and children in their care;
 - 2. Custodial options selected by the relative and fictive kin caregivers;
 - 3. Services provisioned to relative and fictive kin caregivers and children in their care; and
 - 4. Permanency benchmarks and outcomes for relative and fictive kin caregiver placements.
- (b) By September 30, 2020, and upon request thereafter, the cabinet shall submit a report to the Governor, the Chief Justice of the Supreme Court, and the director of the Legislative Research Commission for distribution to the Interim Joint Committee on **Families and Children**~~Health and Welfare and Family Services~~ relating to the data tracking and analysis established in this subsection.

- (6) Foster parents shall have the authority, unless the cabinet determines that the child's religion, race, ethnicity, or national origin prevents it, to make decisions regarding haircuts and hairstyles for foster children who are in their care for thirty (30) days or more.

➔Section 36. KRS 620.055 is amended to read as follows:

- (1) An external child fatality and near fatality review panel is hereby created and established for the purpose of conducting comprehensive reviews of child fatalities and near fatalities, reported to the Cabinet for Health and Family Services, suspected to be a result of abuse or neglect. The panel shall be attached to the Justice and Public Safety Cabinet for staff and administrative purposes.
- (2) The external child fatality and near fatality review panel shall be composed of the following five (5) ex officio nonvoting members and seventeen (17) voting members:
- (a) Two (2) members of the Kentucky General Assembly, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives, who shall be ex officio nonvoting members;
 - (b) The commissioner of the Department for Community Based Services, who shall be an ex officio nonvoting member;
 - (c) The commissioner of the Department for Public Health, who shall be an ex officio nonvoting member;
 - (d) A family court judge selected by the Chief Justice of the Kentucky Supreme Court, who shall be an ex officio nonvoting members;
 - (e) A pediatrician from the University of Kentucky's Department of Pediatrics who is licensed and experienced in forensic medicine relating to child abuse and neglect to be selected by the Attorney General from a list of three (3) names provided by the dean of the University of Kentucky School of Medicine;
 - (f) A pediatrician from the University of Louisville's Department of Pediatrics who is licensed and experienced in forensic medicine relating to child abuse and neglect to be selected by the Attorney General from a list of three (3) names provided by the dean of the University of Louisville School of Medicine;
 - (g) The state medical examiner or designee;
 - (h) A court-appointed special advocate (CASA) program director to be selected by the Attorney General from a list of three (3) names provided by the Kentucky CASA Association;
 - (i) A peace officer with experience investigating child abuse and neglect fatalities and near fatalities to be selected by the Attorney General from a list of three (3) names provided by the commissioner of the Kentucky State Police;
 - (j) A representative from Prevent Child Abuse Kentucky, Inc. to be selected by the Attorney General from a list of three (3) names provided by the president of the Prevent Child Abuse Kentucky, Inc. board of directors;
 - (k) A practicing local prosecutor to be selected by the Attorney General;
 - (l) The executive director of the Kentucky Domestic Violence Association or the executive director's designee;
 - (m) The chairperson of the State Child Fatality Review Team established in accordance with KRS 211.684 or the chairperson's designee;
 - (n) A practicing social work clinician to be selected by the Attorney General from a list of three (3) names provided by the Board of Social Work;
 - (o) A practicing addiction counselor to be selected by the Attorney General from a list of three (3) names provided by the Kentucky Association of Addiction Professionals;
 - (p) A representative from the family resource and youth service centers to be selected by the Attorney General from a list of three (3) names submitted by the Cabinet for Health and Family Services;
 - (q) A representative of a community mental health center to be selected by the Attorney General from a list of three (3) names provided by the Kentucky Association of Regional Mental Health and Mental Retardation Programs, Inc.;

- (r) A member of a citizen foster care review board selected by the Chief Justice of the Kentucky Supreme Court;
 - (s) An at-large representative who shall serve as chairperson to be selected by the Secretary of State;
 - (t) The president of the Kentucky Coroners Association; and
 - (u) A practicing medication-assisted treatment provider to be selected by the Attorney General from a list of three (3) names provided by the Kentucky Board of Medical Licensure.
- (3) (a) By August 1, 2013, the appointing authority or the appointing authorities, as the case may be, shall have appointed panel members. Initial terms of members, other than those serving ex officio, shall be staggered to provide continuity. Initial appointments shall be: five (5) members for terms of one (1) year, five (5) members for terms of two (2) years, and five (5) members for terms of three (3) years, these terms to expire, in each instance, on June 30 and thereafter until a successor is appointed and accepts appointment.
- (b) Upon the expiration of these initial staggered terms, successors shall be appointed by the respective appointing authorities, for terms of two (2) years, and until successors are appointed and accept their appointments. Members shall be eligible for reappointment. Vacancies in the membership of the panel shall be filled in the same manner as the original appointments.
- (c) At any time, a panel member shall recuse himself or herself from the review of a case if the panel member believes he or she has a personal or private conflict of interest.
- (d) If a voting panel member is absent from two (2) or more consecutive, regularly scheduled meetings, the member shall be considered to have resigned and shall be replaced with a new member in the same manner as the original appointment.
- (e) If a voting panel member is proven to have violated subsection (13) of this section, the member shall be removed from the panel, and the member shall be replaced with a new member in the same manner as the original appointment.
- (4) The panel shall meet at least quarterly and may meet upon the call of the chairperson of the panel.
- (5) Members of the panel shall receive no compensation for their duties related to the panel, but may be reimbursed for expenses incurred in accordance with state guidelines and administrative regulations.
- (6) Each panel member shall be provided copies of all information set out in this subsection, including but not limited to records and information, upon request, to be gathered, unredacted, and submitted to the panel within thirty (30) days by the Cabinet for Health and Family Services from the Department for Community Based Services or any agency, organization, or entity involved with a child subject to a fatality or near fatality:
- (a) Cabinet for Health and Family Services records and documentation regarding the deceased or injured child and his or her caregivers, residents of the home, and persons supervising the child at the time of the incident that include all records and documentation set out in this paragraph:
 - 1. All prior and ongoing investigations, services, or contacts;
 - 2. Any and all records of services to the family provided by agencies or individuals contracted by the Cabinet for Health and Family Services; and
 - 3. All documentation of actions taken as a result of child fatality internal reviews conducted pursuant to KRS 620.050(12)(b);
 - (b) Licensing reports from the Cabinet for Health and Family Services, Office of Inspector General, if an incident occurred in a licensed facility;
 - (c) All available records regarding protective services provided out of state;
 - (d) All records of services provided by the Department for Juvenile Justice regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident;
 - (e) Autopsy reports;
 - (f) Emergency medical service, fire department, law enforcement, coroner, and other first responder reports, including but not limited to photos and interviews with family members and witnesses;

- (g) Medical records regarding the deceased or injured child, including but not limited to all records and documentation set out in this paragraph:
1. Primary care records, including progress notes; developmental milestones; growth charts that include head circumference; all laboratory and X-ray requests and results; and birth record that includes record of delivery type, complications, and initial physical exam of baby;
 2. In-home provider care notes about observations of the family, bonding, others in home, and concerns;
 3. Hospitalization and emergency department records;
 4. Dental records;
 5. Specialist records; and
 6. All photographs of injuries of the child that are available;
- (h) Educational records of the deceased or injured child, or other children residing in the home where the incident occurred, including but not limited to the records and documents set out in this paragraph:
1. Attendance records;
 2. Special education services;
 3. School-based health records; and
 4. Documentation of any interaction and services provided to the children and family.

The release of educational records shall be in compliance with the Family Educational Rights and Privacy Act, 20 U.S.C. sec. 1232g and its implementing regulations;

- (i) Head Start records or records from any other child care or early child care provider;
- (j) Records of any Family, Circuit, or District Court involvement with the deceased or injured child and his or her caregivers, residents of the home and persons involved with the child at the time of the incident that include but are not limited to the juvenile and family court records and orders set out in this paragraph, pursuant to KRS Chapters 199, 403, 405, 406, and 600 to 645:
1. Petitions;
 2. Court reports by the Department for Community Based Services, guardian ad litem, court-appointed special advocate, and the Citizen Foster Care Review Board;
 3. All orders of the court, including temporary, dispositional, or adjudicatory; and
 4. Documentation of annual or any other review by the court;
- (k) Home visit records from the Department for Public Health or other services;
- (l) All information on prior allegations of abuse or neglect and deaths of children of adults residing in the household;
- (m) All law enforcement records and documentation regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident; and
- (n) Mental health records regarding the deceased or injured child and his or her caregivers, residents of the home, and persons involved with the child at the time of the incident.
- (7) The panel may seek the advice of experts, such as persons specializing in the fields of psychiatric and forensic medicine, nursing, psychology, social work, education, law enforcement, family law, or other related fields, if the facts of a case warrant additional expertise.
- (8) The panel shall post updates after each meeting to the ~~website~~^[Web site] of the Justice and Public Safety Cabinet regarding case reviews, findings, and recommendations.
- (9) The panel chairperson, or other requested persons, shall report a summary of the panel's discussions and proposed or actual recommendations to the Interim Joint Committee on *Families and Children*~~[Health and Welfare]~~ of the Kentucky General Assembly monthly or at the request of a committee co-chair. The goal of the committee shall be to ensure impartiality regarding the operations of the panel during its review process.

- (10) (a) The panel shall publish an annual report by February 1 of each year consisting of case reviews, findings, and recommendations for system and process improvements to help prevent child fatalities and near fatalities that are due to abuse and neglect. The report shall be submitted to the Governor, the secretary of the Cabinet for Health and Family Services, the Chief Justice of the Supreme Court, the Attorney General, the State Child Abuse and Neglect Prevention Board established pursuant to KRS 15.905, and the director of the Legislative Research Commission for distribution to the Interim Joint Committee on *Families and Children*~~[Health, Welfare, and Family Services]~~, and the Interim Joint Committee on Judiciary.
- (b) The panel shall determine which agency is responsible for implementing each recommendation, and shall forward each recommendation in writing to the appropriate agency.
- (c) Any agency that receives a recommendation from the panel shall, within ninety (90) days of receipt:
1. Respond to the panel with a written notice of intent to implement the recommendation, an explanation of how the recommendation will be implemented, and an approximate time frame of implementation; or
 2. Respond to the panel with a written notice that the agency does not intend to implement the recommendation, and a detailed explanation of why the recommendation cannot be implemented.
- (11) Information and record copies that are confidential under state or federal law and are provided to the external child fatality and near fatality review panel by the Cabinet for Health and Family Services, the Department for Community Based Services, or any agency, organization, or entity for review shall not become the information and records of the panel and shall not lose their confidentiality by virtue of the panel's access to the information and records. The original information and records used to generate information and record copies provided to the panel in accordance with subsection (6) of this section shall be maintained by the appropriate agency in accordance with state and federal law and shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. All open records requests shall be made to the appropriate agency, not to the external child fatality and near fatality review panel or any of the panel members. Information and record copies provided to the panel for review shall be exempt from the Kentucky Open Records Act, KRS 61.870 to 61.884. At the conclusion of the panel's examination, all copies of information and records provided to the panel involving an individual case shall be destroyed by the Justice and Public Safety Cabinet.
- (12) Notwithstanding any provision of law to the contrary, the portions of the external child fatality and near fatality review panel meetings during which an individual child fatality or near fatality case is reviewed or discussed by panel members may be a closed session and subject to the provisions of KRS 61.815(1) and shall only occur following the conclusion of an open session. At the conclusion of the closed session, the panel shall immediately convene an open session and give a summary of what occurred during the closed session.
- (13) Each member of the external child fatality and near fatality review panel, any person attending a closed panel session, and any person presenting information or records on an individual child fatality or near fatality shall not release information or records not available under the Kentucky Open Records Act, KRS 61.870 to 61.884 to the public.
- (14) A member of the external child fatality and near fatality review panel shall not be prohibited from making a good faith report to any state or federal agency of any information or issue that the panel member believes should be reported or disclosed in an effort to facilitate effectiveness and transparency in Kentucky's child protective services.
- (15) A member of the external child fatality and near fatality review panel shall not be held liable for any civil damages or criminal penalties pursuant to KRS 620.990 as a result of any action taken or omitted in the performance of the member's duties pursuant to this section and KRS 620.050, except for violations of subsection (11), (12), or (13) of this section.
- (16) The proceedings, records, opinions, and deliberations of the external child fatality and near fatality review panel shall be privileged and shall not be subject to discovery, subpoena, or introduction into evidence in any civil or criminal actions in any manner that would directly or indirectly identify specific persons or cases reviewed by the panel. Nothing in this subsection shall be construed to restrict or limit the right to discover or use in any civil action any evidence that is discoverable independent of the proceedings of the panel.
- (17) The Legislative Oversight and Investigations Committee of the Kentucky General Assembly shall conduct an annual evaluation of the external child fatality and near fatality review panel established pursuant to this

section to monitor the operations, procedures, and recommendations of the panel and shall report its findings to the General Assembly.

Signed by Governor March 20, 2023.

CHAPTER 26

(HB 442)

AN ACT relating to authorizing the payment of certain claims against the state which have been duly audited and approved according to law and have not been paid because of the lapsing or insufficiency of former appropriations against which the claims were chargeable or the lack of an appropriate procurement document in place, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. There is appropriated out of the general fund, transportation fund, and federal funds in the State Treasury for the purpose of compensating persons and companies named below for claims which have been duly audited and approved according to law, but have not been paid because of lapsing or insufficiency of former appropriations against which the claims were chargeable, or the lack of an appropriate procurement document in place, the amounts listed below:

Campbell Woods PLLC

PO Box 1835

Huntington, West Virginia 25719-1835

\$737.50

Center for Employment Security Education and Research

444 North Capitol Street, NW

Suite 300

Washington, DC 20001-1512

\$363.07

DNA Diagnostics Center

Attn: Contract Services

One DDC Way

Fairfield, OH 45014-2281

\$26,225.00

Eastern Aviation Fuels

dba Titan Aviation Fuels

PO Box 751211

Charlotte, NC 28275-1211

\$52,188.33

EnSite LLC

PO Box 175

Paducah, KY 42002

\$300.00

EnSite LLC

PO Box 175

Paducah, KY 42002

\$940.00

Floyd County Fiscal Court

PO Box 1600

Prestonsburg, KY 41653-5600

\$392,387.45

George Freeman Gilbert	
1041 Briarwood Way	
Lawrenceburg, KY 40342-9459	\$2,875.00
Gilbert Barbee Moore McIlvoy	
dba Graves Gilbert Clinic	
PO Box 90007	
Bowling Green, KY 42102-9007	\$200.00
Jeffrey Herrington	
PO Box 1746	
Lexington, KY 40588-1746	\$500.00
National Center for Families Learning, Inc.	
325 West Main Street, Suite 300	
Louisville, KY 40202-4251	\$32,112.74
NECCO, Inc.	
1404 Race Street, Suite 302	
Cincinnati, OH 45202-7366	\$426,607.27
Oldham County EMS	
PO Box 589	
Madisonville, KY 42431-5011	\$8,807.29
Oldham County Fiscal Court	
100 West Jefferson Street, Suite 4	
Lagrange, KY 40031-1149	\$62,459.26
Practical Actuarial Solutions, Inc.	
12 North Main Street, Suite 10	
West Harford, CT 06107-1936	\$3,410.00
Sani-Tech JetVac Services	
PO Box 74028	
Cleveland, OH 44194-4028	\$115,200.50
Susan K. Lee	
dba Riverside Reporting	
3238 Hildreth Avenue	
Cincinnati, OH 45211-6652	\$293.25
Sweep All, Inc.	
PO Box 436051	
Louisville, KY 40253-6051	\$20,548.60
Tetra Tech, Inc.	
250 West Court Street, Suite 200W	
Cincinnati, OH 45202-1072	\$30,000.00
The Hon Company LLC	

PO Box 404422 Atlanta, GA 30384-4422	\$1,599.40
United Parcel Service PO Box 809488 Chicago, IL 60680-9488	\$410,801.51
University of Kentucky Research Foundation c/o PNC Bank PO Box 931113 Cleveland, OH 44193-1407	\$36,386.00
University of Louisville Research Foundation Kent School of Social Work Oppenheimer Hall #110 Louisville, KY 40292	\$181,134.00
Western Kentucky University 1906 College Heights Boulevard #11016 Bowling Green, KY 42101-1016	\$2,875.00

➔Section 2. The claims listed below are for the payment of State Treasury checks payable to the persons or their personal representatives, and the firms listed, but not presented for payment within a period of five years from the date of issuance of such checks as required by KRS 41.370 and 413.120:

Check #B1 11062863 dated July 1, 2010

23rd Street Investments, Inc.

Attn: Jill Mayes

500 Schoolhouse Road

Johnstown, PA 15904

\$325.00

Check #BA 11112792 dated February 21, 2014

Beckman Coulter, Inc.

Attn: C. A. Schwertner

200 Park Avenue

Orange Village, OH 44122

\$25,025.36

Check #TA 17012515 dated February 29, 2016

Bennett, Marcelita U.

4052 Jonesboro Road

Metropolis, IL 62960

\$132.00

Check #T1 4072575 dated March 1, 2006

Brenner, Megan L.

6531 Claymont Crossing

Crestwood, KY 40014

\$24.00

Check #T1 11771103 dated June 8, 2007

Chapman, Connie

PO BOX 1076

Belfry, KY 41514	\$8.00
Check #GA 18712727 dated January 24, 2014	
City of Jackson	
Attn: Angie Combs	
333 Broadway	
Jackson, KY 41339	\$15,664.00
Check #TA 16678223 dated April 14, 2015	
Clancey, Michael G. & Jose	
308 Forest Lane	
Louisville, KY 40222	\$840.00
Check #GA 21087689 dated December 14, 2016	
Comfort Inn Glasgow	
210 Cavalry Drive	
Glasgow, KY 42141	\$258.96
Check #TA 16375941 dated February 12, 2015	
Costa, Debra K.	
103 Skipper Drive	
Frankfort, KY 40601	\$141.00
Check #BA 11168088 dated August 4, 2017	
Coty US, LLC	
Attn: Shari Thompson	
2500 Broadway Road	
Sandford, NC 27330	\$2,679.77
Check #BA 11168089 dated August 4, 2017	
Coty US, LLC	
Attn: Shari Thompson	
2500 Broadway Road	
Sandford, NC 27330	\$4,578.65
Check #P1 12285330 dated June 15, 2010	
Diana E. Wheeler	
6147 Mistflower Circle	
Prospect, KY 40059	\$2,820.10
Check #P1 12433928 dated December 22, 2010	
Diana E. Wheeler	
6147 Mistflower Circle	
Prospect, KY 40059	\$2,815.93
Check #TA 17244539 dated April 26, 2016	
Dmello, Ajay J. & Sarah	
49 Walhalla Road	

Columbus, OH 43202	\$114.00
Check #E1 11168168 dated May 5, 2008	
Doll, John F. & Deborah L.	
9203 Foxtail Court	
Crestwood, KY 40014	\$132.00
Check #T 6897817 dated May 18, 1999	
Hatton, Mary A.	
700 Lower Hines Creek Road	
Richmond, KY 40475	\$485.55
Check #T1 13396208 dated October 7, 2009	
Howerton, Lisa M.	
2019 Player Place	
New Albany, IN 47150	\$175.00
Check #BA 11079272 dated September 29, 2011	
Infor Global Solutions	
Attn: Wesley Rails	
4111 East 37th Street North	
Wichita, KS 67220	\$1,035.54
Check #T1 0868690 dated May 17, 2002	
Lewis, Clara	
7301 Verona Way	
Louisville, KY 40218	\$245.00
Check #B1 11042638 dated February 19, 2009	
Metlife Capital LPDBA	
Attn: Jill Mayes	
500 Schoolhouse Road	
Johnstown, PA 15904	\$4,977.61
Check #B1 11066033 dated September 23, 2010	
Metlife Capital LPDBA	
Attn: Jill Mayes	
500 Schoolhouse Road	
Johnstown, PA 15904	\$1,969.00
Check #GA 18278408 dated July 18, 2013	
Microsoft Corp.	
Attn: Debra Remboldt	
4668 42nd Street South	
Fargo, ND 58104	\$1,018.99
Check #TA 17414056 dated February 16, 2017	
Mohamed, Yusuf O. & M. I.	

1127 South 6th Street Louisville, KY 40203	\$449.00
Check #TA 16769804 dated May 7, 2015 Moser, Frederick D. & J. L. 27 Cedarview Drive Alexandria, KY 41001	\$246.00
Check #BA 11154068 dated November 18, 2016 Pro Telligent, LLC Attn: Michael Lazar 3490 Piedmont Road, Suite 1025 Atlanta, GA 30305	\$1,565.07
Check #TA 16805648 dated May 26, 2015 Ramsey, Calvin (Estate) Attn: Joyce L. Keeton (Administrator) 217 West Shelby Street Falmouth, KY 41040	\$166.00
Check #GA 16831142 dated January 12, 2012 Ratterman, Thomas S. 3301 Natchez Lane Louisville, KY 40206	\$119.20
Check #TA 16919638 dated February 22, 2016 Redd, James E. PO Box 1483 Eddyville, KY 42038	\$411.00
Check #BA 11156784 dated January 12, 2017 Res Care, Inc. 805 North Whittington Parkway Louisville, KY	\$2,902.02
Check #TA 15697166 dated May 6, 2013 Rizk, Joseph 48 Marsh Hen Court Richmond Hill, GA 31324	\$499.00
Check #GA 21493055 dated June 26, 2017 Robert Perry 402 West Main Avenue Bowling Green, KY 40508	\$0.08
Check #TA 17370358 dated September 13, 2016 Ruff, Daniel L. PO Box 526150	

Miami, FL 33152	\$394.00
Check #TA 17375597 dated October 10, 2016	
Sawyer, Kristina J.	
Attn: Kristina Ozcelik	
60 Creekwood Drive, Unit 6	
Wilder, KY 41071	\$305.00
Check #TA 15878788 dated February 12, 2014	
Spriggs, Melody	
5152 Morrish Road #37	
Swartz Creek, MI 48473	\$149.00
Check #TA 17386388 dated November 4, 2016	
Stowers, Margie (Dec'd)	
364 Victory Lane	
Williamson, WV 25661	\$147.00
Check #TA 16836169 dated July 17, 2015	
Styke, Meghan	
94 West Cooke Road	
Columbus, OH 43214	\$411.00
Check #GA 17005312 dated March 14, 2012	
Trimble Family Practice	
CHFS Redeposit	
102 Athletic Drive	
Frankfort, KY 40601	\$15.00
Check #G1 14999765 dated February 15, 2010	
Unuakhalu, Michael F.	
Unclaimed Property Redeposit	
1050 US 127 South, Suite 100	
Frankfort, KY 40601	\$2,844.66
Check #GA 21487641 dated June 22, 2017	
Walter O'Donnell Estate	
Attn: Loretta O'Donnell (Executor)	
172 Pleasant View Drive	
Hopkinsville, KY 42240	\$1,752.83
Check #T1 12867527 dated February 19, 2009	
White, Cathy A.	
136 North Maple Street	
Richmond, KY 40475	\$50.24

➔Section 3. Whereas, the persons and companies named above have furnished in good faith services, supplies, and materials and the Commonwealth has received the same, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 20, 2023.

CHAPTER 27

(HB 534)

AN ACT relating to required publications.

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

➔Section 1. KRS 424.145 is amended to read as follows:

- (1) As used in this section:
- (a) "Local government" means:
1. Any urban-county government;
 2. Any consolidated local government;
 3. Any charter county;
 4. Any unified local government; and
 5. In any county containing a population of eighty thousand (80,000) or more based upon the most recent federal decennial census, the county itself or any:
 - a. City within the county;
 - b. Special district within the county;
 - c. School district within the county; or
 - d. Special purpose governmental entity within the county; and
- (b) "Notice ~~website~~^[Web site]" means ~~a website~~^[an Internet Web site] that is maintained by a local government or a third party under contract with the local government, which contains links to the legal advertisements or notices electronically published by the local government.
- (2) Local governments may satisfy the requirements of this chapter or any other provision of law requiring the publication of an advertisement in a newspaper by following the alternative procedures established in this section.
- (3) In lieu of newspaper publication, a local government may post the required advertisement online on a notice ~~website~~^[Web site] operated by the local government that is accessible to the public at all times in accordance with subsections (4) to (9) of this section. Publication of an advertisement shall be deemed to have occurred on the date the advertisement is posted on the local government's notice ~~website~~^[Web site].
- (4) (a) In conjunction with an alternative Internet posting, the local government shall publish a newspaper advertisement one (1) time providing notice that the public may view the full advertisement on the notice ~~website~~^[Web site]. The newspaper advertisement shall:
- 1.~~[(a)]~~ Be not more than six (6) column inches and meet the technical requirements of KRS 424.160(1);
 - 2.~~[(b)]~~ Be published within ten (10) days of the alternative posting on the notice ~~website~~^[Web site] when the purpose of the posting is to inform the public of a completed act, including those acts specified in KRS 424.130(1)(a), or within three (3) days of the posting when the purpose of the posting is to inform the public of the right to take a certain action, including the events specified in KRS 424.130(1)(b) and (d);
 - 3.~~[(c)]~~ Inform the public of the subject matter of the alternative posting, inform the public of its right to inspect any documents associated with the Internet posting by contacting the local government, and provide a mailing and a physical address where a copy of the document may be obtained and the Web address if the document is available online; and

4. ~~(d)~~ Provide the full Uniform Resource Locator (URL) of the notice ~~website~~~~[Web site]~~ address and the full Uniform Resource Locator (URL) of the address where the full advertisement may be directly viewed along with a telephone number for the local government.
- (b) A local government may, alternatively, publish an advertisement one (1) time providing notice that the public may view the full advertisement on the notice website in a digital newspaper that meets the qualifications discussed in Section 2 of this Act, so long as the advertisement complies with subparagraphs 2., 3., and 4. of paragraph (a) of this subsection.**
- (5) In addition to specific legal requirements applicable to a particular type of advertisement:
- (a) The contents of each alternative Internet posting shall meet the minimum requirements of KRS 424.140; and
 - (b) The local government shall make the alternative Internet posting in accordance with the times and periods established by KRS 424.130, and shall actively maintain the alternative Internet posting on its public ~~website~~~~[Web site]~~:
 1. Until the deadline passes or the event occurs if the substance of the advertisement is intended to advise the public of a time to take action or the occurrence of a future event;
 2. For at least ninety (90) days if the substance of the advertisement is to inform the public of an action taken by the local government, such as the enactment of an ordinance; or
 3. For one (1) year or until updated or replaced with a more recent version if the substance of the advertisement is intended to inform the public about the financial status of the local government, such as annual audits or the budget.
- (6) The local government shall display access to any and all alternative Internet postings made pursuant to this section prominently on the homepage or first page of the notice ~~website~~~~[Web site]~~. The section of the notice ~~website~~~~[Web site]~~ containing any postings and the actual advertisement shall be made in a manner where the public can readily and with minimal effort identify the location of and easily retrieve the advertisements.
- (7) The local government shall provide a conspicuous statement on its notice ~~website~~~~[Web site]~~ that individuals who have difficulty in accessing the contents of posted advertisements may contact the local government for information regarding alternative methods of accessing advertisements, which shall include the telephone number of the local government.
- (8) As proof of an alternative Internet posting to satisfy any newspaper publication requirement, the local government shall memorialize the posting by capturing the posting in electronic or paper format and shall complete an affidavit signed by the person responsible for causing publications under KRS 424.150, stating that the local government satisfied the publication requirement by alternative Internet posting. The affidavit shall specify the active dates of the notice ~~website~~~~[Web site]~~ posting, the specific statutory requirements being satisfied by the alternative Internet posting, and the notice ~~website~~~~[Web site]~~ address where the alternative posting was located, including the full Uniform Resource Locator (URL) used for the posting. The local government shall retain the captured posting and the affidavit by the person responsible for publication for a period of three (3) years. Together, the captured posting and the affidavit shall constitute prima facie evidence that the posting was made and occurred as stated within the affidavit.
- (9) The failure to cause the newspaper advertisement required in subsection (4) of this section shall not void the action of the local government or negate the enforceability of the matter advertised by alternative Internet posting. Any person who violates the requirements of subsection (4) of this section shall be subject to the penalties provided in KRS 424.990.
- ➔Section 2. KRS 424.120 is amended to read as follows:
- (1) Except as provided in ~~subsections~~~~[subsection]~~ (2) and (4) of this section, if an advertisement for a publication area is required by law to be published in a newspaper, the publication shall be made in a newspaper that meets the following requirements:
- (a) It shall be published in the publication area. A newspaper shall be deemed to be published in the area if it maintains its principal office in the area for the purpose of gathering news and soliciting advertisements and other general business of newspaper publications, and has a periodicals class mailing permit issued for that office. A newspaper published outside of Kentucky shall not be eligible to carry advertisements for any county or publication area within the county, other than for the city in

which its main office is located, if there is a newspaper published in the county that has a substantial general circulation throughout the county and that otherwise meets the requirements of this section; and

- (b) It shall be of regular issue and have a bona fide circulation in the publication area. A newspaper shall be deemed to be of regular issue if it is published at least once a week, for at least fifty (50) weeks during the calendar year as prescribed by its mailing permit, and has been so published in the area for the immediately preceding two (2) year period. A newspaper meeting all the criteria to be of regular issue, except publication in the area for the immediately preceding two (2) year period, shall be deemed to be of regular issue if it is the only *qualified* paper in the ~~county~~ *publication area* and has a paid circulation ~~equal to at least ten percent (10%) of the population of the publication area~~. A newspaper shall be deemed to be of bona fide circulation in the publication area if it is circulated generally in the area, and maintains a definite price or consideration not less than fifty percent (50%) of its published price, and is paid for by not less than fifty percent (50%) of those to whom distribution is made; and
 - (c) It shall bear a title or name, consist of not less than four (4) pages without a cover, and be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, and for current happenings, announcements, miscellaneous reading matter, advertisements, and other notices. The news content shall be at least twenty-five percent (25%) of the total column space in more than one-half (1/2) of its issues during any twelve (12) month period.
 - (d) If, in a publication area there is more than one (1) newspaper which meets the above requirements, the newspaper having the largest bona fide paid circulation as shown by the average number of paid copies of each issue as shown in its published statement of ownership as filed on October 1 for the publication area shall be the newspaper where advertisements required by law to be published shall be carried.
 - (e) For the purposes of KRS Chapter 424, publishing shall be considered as the total recurring processes of producing the newspaper, embracing all of the included contents of reading matter, illustrations, and advertising enumerated in paragraphs (a) through (d) of this subsection. A newspaper shall not be excluded from qualifying for the purposes of legal publications as provided in this chapter if its printing or reproduction processes take place outside the publication area.
- (2) (a) If, in the case of a publication area smaller than the county in which it is located, there is no newspaper published in the area, the publication shall be made in a newspaper published in the county that is qualified under this section to publish advertisements for the county. If the qualified newspaper publishes a zoned edition which is distributed to regular subscribers within the publication area, any advertisement required by law to be published in the publication area may be published in the zoned edition distributed in that area.
- (b) If, in any county there is no newspaper meeting the requirements of this section for publishing advertisements for that county, any advertisements required to be published for the county or for any publication area within the county shall be published in a newspaper of the largest bona fide circulation in that county published in and qualified to publish advertisements for an adjoining county in Kentucky. This subsection is intended to supersede any statute that provides or contemplates that newspaper publication may be dispensed with if there is no newspaper printed or published or of general circulation in the particular publication area.
- (3) If a publication area consists of a district, other than a city, which extends into more than one (1) county, the part of the district in each county shall be considered to be a separate publication area for the purposes of this section, and an advertisement for each separate publication area shall be published in a newspaper qualified under this section to publish advertisements for the area.
- (4) ***If an advertisement for a publication area is required by law to be published in a newspaper, the publication may, alternatively, be made in a digital newspaper that:***
- (a) ***Maintains an active news gathering office in the publication area;***
 - (b) ***Has been actively publishing for at least one (1) year, and is updated on at least a weekly basis;***
 - (c) ***Has as its primary purpose reporting on matters of import to the public, and contains regular reporting regarding local and community issues in the publication area;***
 - (d) ***Is easily accessible to the public through common Internet search engines or other Internet search means;***

- (e) *Contains conspicuous links or headings on its landing page that direct members of the public to public notices; and*
- (f) *Distributes, or has ownership interest in another entity that distributes, newspapers printed in Kentucky, and is capable of circulating printed newspapers throughout the publication area.*

For purposes of satisfying publication requirements of this chapter, an advertisement is deemed to be published on the date that it is posted on the website of the digital newspaper. Any other statute requiring newspaper publication that contains requirements related to the physical dimensions, typesetting, font, or other aspects particular to a printed newspaper are not applicable where the advertisement is made in a digital newspaper that qualifies under this subsection.

Signed by Governor March 20, 2023.

CHAPTER 28

(HB 587)

AN ACT relating to internal audit functions at public pension funds.

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

➔Section 1. KRS 61.505 is amended to read as follows:

- (1) There is created an eight (8) member Kentucky Public Pensions Authority whose purpose shall be to administer and operate:
 - (a) A single personnel system for the staffing needs of the Kentucky Retirement Systems and the County Employees Retirement System;
 - (b) A system of accounting that is developed by the Authority for the Kentucky Retirement Systems and the County Employees Retirement System;
 - (c) Day-to-day administrative needs of the Kentucky Retirement Systems and the County Employees Retirement System, including but not limited to:
 - 1. Benefit counseling and administration;
 - 2. Information technology and services, including a centralized Web site for the Authority, the Kentucky Retirement Systems, and the County Employees Retirement System;
 - 3. Legal services;
 - 4. Employer reporting and compliance;
 - 5. Processing and distribution of benefit payments, and other financial, investment administration, and accounting duties as directed by the Kentucky Retirement Systems board of trustees or the County Employees Retirement System board of trustees;
 - 6. All administrative actions, orders, decisions, and determinations necessary to carry out benefit functions required by the Kentucky Retirement Systems and the County Employment Retirement System statutes, including but not limited to administration of reduced and unreduced retirement benefits, disability retirement, reemployment after retirement, service purchases, computation of sick-leave credit costs, correction of system records, qualified domestic relations orders, and pension spiking determinations; and
 - 7. Completing and compiling financial data and reports;
 - (d) Any jointly held assets used for the administration of the Kentucky Retirement Systems and the County Employees Retirement System, including but not limited to real estate, office space, equipment, and supplies;
 - (e) The hiring of a single actuarial consulting firm who shall serve both the Kentucky Retirement Systems and the County Employees Retirement System;

- (f) The hiring of a single external certified public accountant who shall perform audits for both the Kentucky Retirement Systems and the County Employees Retirement System;
 - (g) The promulgation of administrative regulations as an authority or on behalf of the Kentucky Retirement Systems and the County Employees Retirement System, individually or collectively, provided such regulations are not inconsistent with the provisions of this section and KRS 16.505 to 16.652, 61.505, 61.510 to 61.705, and 78.510 to 78.852, necessary or proper in order to carry out the provisions of this section and duties authorized by KRS 16.505 to 16.652 and 61.510 to 61.705;
 - (h) A system of contracting management for administrative services; and
 - (i) Other tasks or duties as directed solely or jointly by the boards of the Kentucky Retirement Systems or the County Employees Retirement System.
- (2) The eight (8) member Kentucky Public Pensions Authority shall be composed of the following individuals:
- (a) The chair of the Kentucky Retirement Systems board of trustees;
 - (b) The chair of the County Employees Retirement System board of trustees;
 - (c) The investment committee chair of the Kentucky Retirement Systems board of trustees, unless the investment committee chair is also the chair of the board of trustees in which case the chair of the Kentucky Retirement Systems shall appoint an individual who serves on the investment committee;
 - (d) The investment committee chair of the County Employees Retirement System board of trustees, unless the investment committee chair is also the chair of the County Employees Retirement System board of trustees in which case the chair of the County Employees Retirement System shall appoint an individual who serves on the investment committee;
 - (e) Two additional (2) trustees of the Kentucky Retirement Systems board of trustees selected by the chair of the Kentucky Retirement Systems board of trustees of which one (1) shall be a trustee who was elected by the membership of one (1) of the systems administered by Kentucky Retirement Systems and one (1) shall be a trustee of Kentucky Retirement Systems who was appointed by the Governor; and
 - (f) Two additional (2) trustees of the County Employees Retirement System board of trustees selected by the chair of the County Employees Retirement System board of trustees of which one (1) shall be a trustee who was elected by the membership of the County Employees Retirement System and one (1) shall be a trustee of the County Employees Retirement System who was appointed by the Governor.
- (3) The Kentucky Public Pensions Authority is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:
- (a) To sue and be sued in its corporate name;
 - (b) To make bylaws not inconsistent with the law and in accordance with its duties as provided by this section;
 - (c) To conduct the business and promote the purposes for which it was formed;
 - (d) To carry out the obligations of the Authority subject to KRS Chapters 45, 45A, 56, and 57;
 - (e) To purchase fiduciary liability insurance; and
 - (f) The Kentucky Public Pensions Authority shall reimburse any Authority member, officer, or employee for any legal expense resulting from a civil action arising out of the performance of his or her official duties. The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.
- (4) Any vacancy which may occur in an appointed position on the Kentucky Public Pensions Authority shall be filled in the same manner which provides for the selection of the particular member of the Authority. No person shall serve in more than one (1) position as a member of the Authority and if a person holds more than one (1) position as a member of the Authority, he or she shall resign a position.

- (5) (a) Membership on the Authority shall not be incompatible with any other office unless a constitutional incompatibility exists. No Authority member shall serve in more than one (1) position as a member of the Authority.
- (b) An Authority member shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.
- (c) A current or former employee of the County Employees Retirement System, Kentucky Retirement Systems, or the Kentucky Public Pensions Authority shall not be eligible to serve as a member of the Authority.
- (6) Kentucky Public Pensions Authority members who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards, except that the members shall not receive a per diem or receive reimbursements on the same day they receive a per diem or reimbursements for service to the Kentucky Retirement Systems board of trustees or County Employees Retirement Systems board of trustees.
- (7) (a) The Authority shall meet at least once in each quarter of the year and may meet in special session upon the call of the chair or the executive director of the Authority.
- (b) The Authority shall elect a chair and a vice chair. The chair shall not serve more than four (4) consecutive years as chair or vice chair of the Authority. The vice chair shall not serve more than four (4) consecutive years as chair or vice chair of the Authority. A member who has served four (4) consecutive years as chair or vice chair of the Authority may be elected chair or vice chair of the Authority after an absence of two (2) years from the positions.
- (c) A majority of the Authority members shall constitute a quorum and all actions taken by the Authority shall be by affirmative vote of a majority of the Authority members present.
- (d) The Authority shall post on the Authority's Web site and shall make available to the public:
1. All meeting notices and agendas of the Authority. Notices and agendas shall be posted to the Authority's Web site at least seventy-two (72) hours in advance of the Authority's meetings, except in the case of special or emergency meetings as provided by KRS 61.823;
 2. All Authority minutes or other materials that require adoption or ratification by the Authority. The items listed in this subparagraph shall be posted within seventy-two (72) hours of adoption or ratification of the Authority;
 3. All bylaws, policies, or procedures adopted or ratified by the Authority; and
 4. A listing of the members of the Authority and membership on each committee established by the Authority.
- (8) (a) The Kentucky Public Pensions Authority shall appoint or contract for the services of an executive director **and an internal auditor** and fix the compensation and other terms of employment for **these positions**~~[this position]~~ without limitation of the provisions of KRS Chapter 18A, 45A, and KRS 64.640. The executive director shall be the chief administrative officer of the Authority, the Kentucky Retirement Systems board of trustees, and the County Employees Retirement System board of trustees. **The internal auditor shall report directly to the trustees of the Kentucky Public Pensions Authority to perform internal audit functions as directed by the Authority.** The executive director **and internal auditor** shall work cooperatively with the chief executive officers of the Kentucky Retirement Systems and the County Employees Retirement System. The Authority shall annually conduct a performance evaluation of the executive director **and internal auditor**.
- (b) The Kentucky Public Pensions Authority shall authorize the executive director, **or the internal auditor in the case of employees under the direct supervision of the internal auditor**, to appoint the employees deemed necessary to transact the duties of the Authority for the purposes outlined in subsection (1) of this section. After April 14, 2022, approval by the Authority shall be required for a petition to the secretary of the Personnel Cabinet for the creation of any new unclassified position pursuant to KRS 18A.115(1)(e), (g), (h), and (i).
- (c) Effective April 1, 2021, the Kentucky Public Pensions Authority shall assume responsibility of administering the staff of the Kentucky Retirement Systems in order to provide the services established by this section.

- (d)
 - 1. All employees of the Kentucky Public Pensions Authority, except for the executive director and no more than six (6) unclassified employees of the Office of Investments employed pursuant to KRS 18A.115(1)(e), (g), (h), and (i), shall be subject to the state personnel system established pursuant to KRS 18A.005 to 18A.204 and shall have their salaries determined by the secretary of the Personnel Cabinet.
 - 2. The employees exempted from the classified service under this paragraph shall not be subject to the salary limitations specified in KRS 64.640(2) and (3).
 - 3. The Kentucky Public Pensions Authority shall adopt a written salary and classification plan fixing a range of compensation and written terms of employment for any of the unclassified employees of the Office of Investments it authorizes under this paragraph. The Authority shall authorize the executive director to appoint up to six (6) unclassified employees of the Office of Investments subject to the compensation ranges and terms of employment the Authority has established. The Authority may amend the written salary and classification plan adopted under this paragraph at any time.
- (e) The Authority shall annually review, approve, and submit a report to the Public Pension Oversight Board detailing the number of employees of the Authority, the salary paid to each employee, and the change in the salaries of each individual employed by the Authority over the prior year.
- (f) The Authority shall require the executive director and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.
- (g) Notwithstanding any other provision of statute to the contrary, including but not limited to any provision of KRS Chapter 12, the Governor shall have no authority to change any provision of this section by executive order or action, including but not limited to reorganizing, replacing, amending, or abolishing the membership of the Kentucky Public Pensions Authority.
- (9) All employees of the Authority shall serve during its will and pleasure. Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.
- (10) The Attorney General, or an assistant designated by him or her, may attend each meeting of the Authority and may receive the agenda, board minutes, and other information distributed to Authority members upon request. The Attorney General may act as legal adviser and attorney for the Authority, and the Authority may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.
- (11) (a)
 - 1. All expenses incurred by or on behalf of the Kentucky Public Pensions Authority shall be paid by the systems administered by the Kentucky Retirement Systems or the County Employees Retirement System and shall be prorated, assigned, or allocated to each system as determined by Kentucky Public Pensions Authority.
 - 2. Until June 30, 2024, any additional initial costs determined by the Authority to be attributable solely to establishing a separate County Employees Retirement System board and the Kentucky Public Pensions Authority as provided by this section and KRS 78.782 shall be paid by the County Employees Retirement System. Until June 30, 2024, any additional ongoing annual administrative and investment expenses that occur after the establishment of a separate County Employees Retirement System board and the Kentucky Public Pensions Authority that are determined by the Authority to be a direct result of establishing a separate County Employees Retirement System board and the Kentucky Public Pensions Authority shall be paid by the County Employees Retirement System. Beginning on and after July 1, 2024, any annual administrative and investment expenses shall be prorated, assigned, or allocated to each system as determined by the Kentucky Public Pensions Authority as provided by subparagraph 1. of this paragraph but without attribution to the establishment of a separate County Employees Retirement System board and the Kentucky Public Pensions Authority.
 - 3. In order to evaluate the results of establishing a separate County Employees Retirement System board and the Kentucky Public Pensions Authority, on or before November 15, 2022, and on or before November 15 following the close of each successive fiscal year, the Kentucky Public Pensions Authority shall report to the Public Pensions Oversight Board the annual administrative and investment expenses of the Kentucky Retirement Systems and the County Employees Retirement System. The report shall include but not be limited to the process or manner the Authority used to prorate, assign, or allocate to each system its share of the expenses, the amount

of expenses prorated, assigned, or allocated to each system itemized by category, and any efforts by the systems or the Authority to reduce administrative costs and staffing needs.

- (b) Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the Kentucky Public Pensions Authority, the Kentucky Retirement Systems, and the County Employees Retirement System shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48. The Kentucky Public Pensions Authority shall approve the biennial budget unit request prior to its submission by the Authority. The request from the Kentucky Public Pensions Authority shall include any specific administrative expenses requested by the Kentucky Retirement Systems board of trustees or the County Employees Retirement System board of trustees pursuant to KRS 61.645(13) or 78.782(13), as applicable, that are not otherwise expenses specified by paragraph (a) of this subsection.
- (12) (a) An Authority member shall discharge his or her duties as a member of the Authority, including his or her duties as a member of a committee of the Authority:
- 1. In good faith;
 - 2. On an informed basis; and
 - 3. In a manner he or she honestly believes to be in the best interest of the County Employees Retirement System and the Kentucky Retirement Systems, as applicable.
- (b) An Authority member discharges his or her duties on an informed basis if, when he or she makes an inquiry into the business and affairs of the Authority, system, or systems or into a particular action to be taken or decision to be made, he or she exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.
- (c) In discharging his or her duties, an Authority member may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
- 1. One (1) or more officers or employees of the Authority whom the Authority member honestly believes to be reliable and competent in the matters presented;
 - 2. Legal counsel, public accountants, actuaries, or other persons as to matters the Authority member honestly believes are within the person's professional or expert competence; or
 - 3. A committee of the Authority of which he or she is not a member if the Authority member honestly believes the committee merits confidence.
- (d) An Authority member shall not be considered as acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.
- (e) Any action taken as a member of the Authority, or any failure to take any action as an Authority member, shall not be the basis for monetary damages or injunctive relief unless:
- 1. The Authority member has breached or failed to perform the duties of the member's office in compliance with this section; and
 - 2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.
- (f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraph (e)1. and 2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems or County Employees Retirement System, as applicable.
- (g) In discharging his or her administrative duties under this section, an Authority member shall strive to administer the systems in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky and shall take all actions available under the law to contain costs for the trusts, including costs for participating employers, members, and retirees.

Signed by Governor March 20, 2023.

CHAPTER 29

(SB 112)

AN ACT relating to the confidentiality of tax information.

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

➔Section 1. KRS 67.790 is amended to read as follows:

- (1) A business entity subject to tax on gross receipts or net profits may be subject to a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the business entity:
 - (a) Fails to file any return or report on or before the due date prescribed for filing or as extended by the tax district; or
 - (b) Fails to pay the tax computed on the return or report on or before the due date prescribed for payment.

The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25).

- (2) Every employer who fails to file a return or pay the tax on or before the date prescribed under KRS 67.783 may be subject to a penalty in an amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars (\$25).
- (3) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the tax district. A fraction of a month is counted as an entire month.
- (4) Every tax subject to the provisions of KRS 67.750 to 67.790, and all increases, interest, and penalties thereon, shall become, from the time the tax is due and payable, a personal debt of the taxpayer to the tax district.
- (5) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return, willfully makes a false return, or willfully fails to pay taxes owing or collected, with the intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.
- (6) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under KRS 67.750 to 67.790 of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.
- (7) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the tax district and required to be filed with the tax district by the provisions of KRS 67.750 to 67.790, or by the rules of the tax district or by written request for information to the business entity by the tax district.
- (8) (a) No present or former employee of any tax district shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the tax district or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to:
 1. Information required in prosecutions for making false reports or returns for taxation~~[,]~~ or any other infraction of the tax laws;
 2. **Information that is~~[, or]~~** in any way made a matter of public record;
 3. **Information requested for audit purposes by a taxing jurisdiction;**
 4. ~~[, Nor does it preclude]~~ Furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return; **or**
 5. ~~An~~[. Further, this prohibition does not preclude any]~~ employee of the tax district **when the employee is~~[from]~~** testifying in any court~~[,]~~ or ~~[from]~~ introducing as evidence returns or reports~~

filed with the tax district, in an action for violation of a tax district tax laws or in any action challenging a tax district tax laws.

- (b) Any person who violates the provisions of paragraph (a) of this subsection by intentionally inspecting confidential taxpayer information without authorization shall be fined not more than five hundred dollars (\$500) or imprisoned for not longer than six (6) months, or both.
 - (c) Any person who violates the provisions of paragraph (a) of this subsection by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
- (9) If a tax district that imposes a net profits or gross receipts occupational license tax fails to comply with the requirements of KRS 67.766(1) or (2), the Secretary of State shall inform the tax district in writing of its noncompliance. If the tax district is not in compliance within thirty (30) days following the notice from the Secretary, the Secretary shall notify all state agencies which deliver services or payments of money from the Commonwealth to the tax district of the tax district's noncompliance. Those agencies shall suspend delivery of all services or payments to a tax district which fails to comply with the requirements of KRS 67.766(1) or (2). The Secretary of State shall immediately notify those same agencies when the tax district is in compliance with the requirements of KRS 67.766(1) or (2), and those agencies shall reinstate the delivery of services or payments to the tax district.

Signed by Governor March 20, 2023.

CHAPTER 30

(HB 170)

AN ACT relating to coverage for medical services.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

- (a) *"Health benefit plan" has the same meaning as in KRS 304.17A-005, except that for purposes of this section, the term includes student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure;*
- (b) *"Iatrogenic infertility" means an impairment of fertility caused by surgery, radiation, chemotherapy, or any other medical treatment affecting reproductive organs or processes;*
- (c) *"May directly or indirectly cause" means the treatment has a likely side effect of infertility as established by the American Society for Reproductive Medicine, the American Society of Clinical Oncology, or any other reputable professional medical organization;*
- (d) *"Oocyte and sperm preservation services" means oocyte and sperm preservation procedures that are consistent with established medical practices and professional guidelines published by the American Society for Reproductive Medicine, the American Society of Clinical Oncology, or any other reputable professional medical organization; and*
- (e) *"Religious organization" includes but is not limited to a religious group, corporation, association, school or educational institution, ministry, order, society, or similar entity, regardless of whether it is integrated or affiliated with a church or other house of worship.*

(2) Except as provided in subsection (5) of this section, all health benefit plans shall provide coverage for oocyte and sperm preservation services when a medically necessary treatment may directly or indirectly cause iatrogenic infertility to an insured.

(3) The coverage required by subsection (2) of this section:

- (a) **Shall include:**

1. *Evaluation expenses;*
 2. *Laboratory assessments; and*
 3. *Medications and treatment associated with oocyte and sperm cryopreservation procedures, including obtaining, freezing, and storing gametes for up to one (1) year; and*
- (b) *May:*
1. *Exclude costs associated with storage of oocytes or sperm after one (1) year;*
 2. *Include age restrictions in accordance with guidelines set forth by the American Society for Reproductive Medicine or the American Society of Clinical Oncology;*
 3. *Include a lifetime limit of one (1) oocyte or sperm cryopreservation procedure per eligible insured; and*
 4. *Be limited to nonexperimental procedures, as defined by the American Society for Reproductive Medicine or the American Society of Clinical Oncology.*
- (4) *Procedures covered by this section shall:*
- (a) *Be performed at a health facility licensed or certified in Kentucky or another state; and*
 - (b) *Conform to the guidelines of the American Society for Reproductive Medicine or the American Society of Clinical Oncology.*
- (5) *This section shall not apply to an employer-sponsored health benefit plan if the employer is a religious organization.*

➔SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *All insurers issuing or renewing a health insurance policy, certificate, plan, or contract, including but not limited to a health benefit plan, that provides coverage for orchiectomy or orchidectomy as treatment for testicular or other urological cancer shall provide coverage, in a manner determined in consultation with the attending physician and the insured patient and subject to applicable cost sharing that is consistent with the cost sharing established for other benefits under the coverage, for the following:*
- (a) *All stages of surgical reconstruction related to the orchiectomy or orchidectomy, including testicular or other urological prostheses; and*
 - (b) *Physical complications of all stages of orchiectomy or orchidectomy, including any related surgical reconstruction.*
- (2) *An insurer shall provide written notice to an insured of the availability of coverage for an orchiectomy or orchidectomy upon enrollment and annually thereafter.*

➔SECTION 3. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Section 2 of this Act shall apply to limited health service benefit plans, including any limited health service contract, as defined in KRS 304.38A-010.

➔SECTION 4. A NEW SECTION OF SUBTITLE 38A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Limited health service organizations shall comply with Section 2 of this Act.

➔Section 5. KRS 18A.225 is amended to read as follows:

- (1) (a) The term "employee" for purposes of this section means:
1. Any person, including an elected public official, who is regularly employed by any department, office, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, County Employees Retirement System, Kentucky Teachers' Retirement

System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567; or is eligible to participate in a retirement plan established by an employer who ceases participating in the Kentucky Employees Retirement System pursuant to KRS 61.522 whose employees participated in the health insurance plans administered by the Personnel Cabinet prior to the employer's effective cessation date in the Kentucky Employees Retirement System;

2. Any certified or classified employee of a local board of education or a public charter school as defined in KRS 160.1590;
 3. Any elected member of a local board of education;
 4. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, County Employees Retirement System, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, the Judicial Retirement Plan, or the Kentucky Community and Technical College System's optional retirement plan authorized by KRS 161.567, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(2)(b)3. and 78.5536(2)(b)3., unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and
 5. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program;
- (b) The term "health benefit plan" for the purposes of this section means a health benefit plan as defined in KRS 304.17A-005;
 - (c) The term "insurer" for the purposes of this section means an insurer as defined in KRS 304.17A-005; and
 - (d) The term "managed care plan" for the purposes of this section means a managed care plan as defined in KRS 304.17A-500.
- (2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more insurers authorized to do business in this state, a group health benefit plan that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection (13) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.
 - (b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions the commissioner of insurance approves, whether or not otherwise permitted by the insurance laws.
 - (c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Except as provided in subsection (20) of this section, any carrier bidding to offer health care coverage to employees shall also

agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program and as otherwise provided in KRS 61.702(2)(b)3.b. and 78.5536(2)(b)3.b.

- (d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.
 - (e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorily required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including but not limited to loss ratios, reserves, and reinsurance agreements.
 - (f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.
 - (g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account.
 - (h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.
- (3) The premiums may be paid by the policyholder:
- (a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;
 - (b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or
 - (c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.
- (4) If an employee moves his or her place of residence or employment out of the service area of an insurer offering a managed health care plan, under which he or she has elected coverage, into either the service area of another managed health care plan or into an area of the Commonwealth not within a managed health care plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health benefit plan.
- (5) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public

postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.

- (6) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.
- (7) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he or she has been determined to be eligible for federal Social Security disability benefits.
- (8) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.
- (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or the secretary's designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.
- (10) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.
- (11) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.
- (12) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.
- (13)
 - (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.
 - (b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.
 - (c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.
- (14) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months pursuant to KRS 304.17A-132.
- (15) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for the diagnosis and treatment of autism spectrum disorders consistent with KRS 304.17A-142.

- (16) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining amino acid-based elemental formula pursuant to KRS 304.17A-258.
- (17) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
- (18) If a state employee's residence and place of employment are each located in counties in which the hospitals do not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a county contiguous to the county of residence that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
- (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.
- (20) Notwithstanding any other provision of this section, the bid for proposals for health insurance coverage for calendar year 2004 shall include a bid scenario that reflects the statewide rating structure provided in calendar year 2003 and a bid scenario that allows for a regional rating structure that allows carriers to submit bids that may vary by region for a given product offering as described in this subsection:
 - (a) The regional rating bid scenario shall not include a request for bid on a statewide option;
 - (b) The Personnel Cabinet shall divide the state into geographical regions which shall be the same as the partnership regions designated by the Department for Medicaid Services for purposes of the Kentucky Health Care Partnership Program established pursuant to 907 KAR 1:705;
 - (c) The request for proposal shall require a carrier's bid to include every county within the region or regions for which the bid is submitted and include but not be restricted to a preferred provider organization (PPO) option;
 - (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the carrier all of the counties included in its bid within the region. If the Personnel Cabinet deems the bids submitted in accordance with this subsection to be in the best interests of state employees in a region, the cabinet may award the contract for that region to no more than two (2) carriers; and
 - (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including other requirements or criteria in the request for proposal.
- (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July 12, 2006, to public employees pursuant to this section which provides coverage for services rendered by a physician or osteopath duly licensed under KRS Chapter 311 that are within the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter 320 shall provide the same payment of coverage to optometrists as allowed for those services rendered by physicians or osteopaths.
- (22) Any fully insured health benefit plan or self-insured plan issued or renewed to public employees pursuant to this section shall comply with:
 - (a) KRS 304.12-237;
 - (b) KRS 304.17A-270 and 304.17A-525;
 - (c) KRS 304.17A-600 to 304.17A-633;
 - (d) KRS 205.593;
 - (e) KRS 304.17A-700 to 304.17A-730;
 - (f) KRS 304.14-135;
 - (g) KRS 304.17A-580 and 304.17A-641;
 - (h) KRS 304.99-123;
 - (i) KRS 304.17A-138;

- (j) KRS 304.17A-148;
- (k) KRS 304.17A-163 and 304.17A-1631; ~~and~~
- (l) *Section 1 of this Act*;
- (m) *Section 2 of this Act*; and
- (n) Administrative regulations promulgated pursuant to statutes listed in this subsection.

➔Section 6. KRS 164.2871 is amended to read as follows:

- (1) The governing board of each state postsecondary educational institution is authorized to purchase liability insurance for the protection of the individual members of the governing board, faculty, and staff of such institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of such institution.
- (2) All retirement annuity allowances accrued or accruing to any employee of a state postsecondary educational institution through a retirement program sponsored by the state postsecondary educational institution are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any employee of a state postsecondary educational institution through a retirement program sponsored by the state postsecondary educational institution on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.
- (3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards, faculty and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.
- (4) The governing board of each state postsecondary education institution is authorized to provide a self-insured employer group health plan to its employees, which plan shall:
 - (a) Conform to the requirements of Subtitle 32 of KRS Chapter 304; and
 - (b) Except as provided in subsection (5) of this section, be exempt from conformity with Subtitle 17A of KRS Chapter 304.
- (5) A self-insured employer group health plan provided by the governing board of a state postsecondary education institution to its employees shall comply with:
 - (a) KRS 304.17A-163 and 304.17A-1631;
 - (b) *Section 1 of this Act*; and
 - (c) *Section 2 of this Act*.

➔Section 7. This Act applies to policies, certificates, plans, and contracts issued or renewed on or after January 1, 2025.

➔Section 8. This Act takes effect January 1, 2025.

Signed by Governor March 20, 2023.

CHAPTER 31

(HB 241)

AN ACT relating to compulsory attendance.

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

➔Section 1. KRS 159.030 is amended to read as follows:

- (1) The board of education of the district in which the child resides shall exempt from the requirement of attendance upon a regular public day school every child of compulsory school age:
 - (a) Who is a graduate from an accredited or an approved four (4) year high school; or
 - (b) Who is enrolled and in regular attendance in a private, parochial, or church regular day school. It shall be the duty of each private, parochial, or church regular day school to notify the local board of education of those students in attendance at the school. If a school declines, for any reason, to notify the local board of education of those students in attendance, it shall so notify each student's parent or legal guardian in writing, and it shall then be the duty of the parent or legal guardian to give proper notice to the local board of education; or
 - (c) Who is less than seven (7) years old and is enrolled and in regular attendance in a private kindergarten-nursery school; or
 - (d) Whose physical or mental condition prevents or renders inadvisable attendance at school; or
 - (e) Who is enrolled and in regular attendance in private, parochial, or church school programs for exceptional children; or
 - (f) Who is enrolled and in regular attendance in a state-supported program for exceptional children;
 - (g) For purposes of this section, "church school" shall mean a school operated as a ministry of a local church, group of churches, denomination, or association of churches on a nonprofit basis.
- (2)
 - (a) Before granting an exemption under subsection (1)(d) of this section, the board of education of the district in which the child resides shall require submission to the board of satisfactory evidence in the form of a signed statement of a properly licensed physician, advanced practice registered nurse, physician's assistant, psychologist, ~~or~~ psychiatrist, **or qualified mental health professional as defined in KRS 202A.011** responsible for diagnosing and treating the child, stating that the diagnosed condition of the child prevents or renders inadvisable attendance at school and requires home or hospital instruction. If the condition is mental health related, then the signed statement shall be completed by a **qualified mental health professional as defined by KRS 202A.011** ~~licensed physician, psychiatrist, psychologist, or physician's assistant described in KRS 202A.011 or an advanced practice registered nurse defined in KRS 314.011 and certified in psychiatric mental health nursing~~. On the basis of such evidence, the local board of education may exempt the child from compulsory attendance.
 - (b) Any child who is excused from school attendance more than six (6) months shall have two (2) signed statements from a combination of two (2) of the professional persons in accordance with paragraph (a) of this subsection, except that this requirement shall not apply to a child whose signed statement certifies that the student has a chronic physical condition that prevents or renders inadvisable attendance at school and is unlikely to substantially improve within one (1) year.
 - (c) Exemptions of any student under the provisions of subsection (1)(d) of this section shall be reviewed annually with the evidence required being updated.
- (3) The Kentucky Board of Education may promulgate administrative regulations to establish the components of compulsory attendance and exemptions.

Signed by Governor March 20, 2023.

CHAPTER 32

(HB 287)

AN ACT relating to charitable gaming.

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

➔Section 1. KRS 238.550 is amended to read as follows:

- (1) All adjusted gross receipts from charitable gaming shall be handled only by chairpersons, officers, or employees of the licensed charitable organization.

- (2) *Except as authorized by subsection (11) of this section*, within two (2) business days after the completion of a charitable gaming event or session, all gross receipts and adjusted gross receipts shall be deposited into one checking account devoted exclusively to charitable gaming. This checking account shall be designated the "charitable gaming account," and the licensed charitable organization shall maintain its account at a financial institution located in the Commonwealth of Kentucky. No other funds may be deposited or transferred into the charitable gaming account.
- (3) All payments for charitable gaming expenses, payments made for prizes purchased, and any charitable donations from charitable gaming receipts shall be made from the charitable gaming account and the payments or donations shall be made only by bona fide officers of the organization by checks having preprinted consecutive numbers and made payable to specific persons or organizations. No check drawn on the charitable gaming account may be made payable to "cash," or "bearer," except that a licensed charitable organization may withdraw start-up funds for a charitable gaming event or session from the charitable gaming account by check made payable to "cash" or "bearer," if these start-up funds are redeposited into the charitable gaming account together with all adjusted gross receipts derived from the particular event or session. Checks shall be imprinted with the words "charitable gaming account" and shall contain the organization's license number on the face of each check. Payments for charitable gaming expenses, prizes purchased, and charitable donations may be made by electronic funds transfer if the payments are made to specific persons or organizations. The department may by administrative regulation adopt alternative reporting requirements for charitable gaming of limited scope or duration, if these requirements are sufficient to ensure accountability for all moneys handled.
- (4) A licensed charitable organization shall expend net receipts exclusively for purposes consistent with the charitable, religious, educational, literary, civic, fraternal, or patriotic functions or objectives for which the licensed charitable organization received and maintains federal tax-exempt status, or consistent with its status as a common school, an institution of higher education, or a state college or university. No net receipts shall inure to the private benefit or financial gain of any individual.
- (5) Accurate records and books shall be maintained by each organization exempt from licensure under KRS 238.535(1) and each licensed charitable organization for a period of three (3) years. Department staff shall have access to these records at reasonable times. Licensed charitable organizations and exempt organizations shall maintain their charitable gaming records at their offices or places of business within the Commonwealth of Kentucky as identified in their license applications or applications for exempt status. An exempt organization shall submit a yearly financial report in accordance with KRS 238.535(2), and failure to file this report shall constitute grounds for revocation of the organization's exempt status.
- (6) All licensed charitable organizations that have annual gross receipts of two hundred thousand dollars (\$200,000) or less and do not have a weekly bingo session shall report to the department annually at the time and on a form established in administrative regulations promulgated by the department.
- (7) All other licensed charitable organizations shall submit reports to the department at least quarterly at the time and on a form established in administrative regulations promulgated by the department.
- (8) Failure by a licensed charitable organization to file reports required under this chapter shall constitute grounds for revocation of the organization's license or denial of the organization's application to renew its license in accordance with KRS 238.560(3). Reports filed by a licensed charitable organization shall include but shall not be limited to the following information:
 - (a) All gross receipts received from charitable gaming for the reporting period, classified by type of gaming activity;
 - (b) The names and addresses of all persons who are winners of prizes having a fair market value of six hundred dollars (\$600) or more;
 - (c) All expenses paid and the names and addresses of all persons to whom expenses were paid;
 - (d) All net receipts retained and the names and addresses of all charitable endeavors that received money from the net receipts; and
 - (e) Any other information the department deems appropriate.
- (9) No licensed charitable organization shall incur charitable gaming expenses, except as provided in this chapter. No licensed charitable organization shall be permitted to expend amounts in excess of prevailing market rates for the following charitable gaming expenses:
 - (a) Charitable gaming supplies and equipment;

- (b) Rent;
 - (c) Utilities;
 - (d) Insurance;
 - (e) Advertising;
 - (f) Janitorial services;
 - (g) Bookkeeping and accounting services;
 - (h) Security services;
 - (i) Membership dues for its participation in any charitable gaming trade organization; and
 - (j) Any other expenses the department may determine by administrative regulation to be legitimate.
- (10) No licensed charitable organization shall expend receipts from charitable gaming activities nor incur expenses to form, maintain, or operate as a labor organization.
- (11) *For the purposes of deposits under subsection (2) of this section, a licensed charitable organization conducting charitable gaming events or sessions shall only be required to deposit its gross receipts and adjusted gross receipts one (1) time per week if the following conditions are met:*
- (a) *The charitable gaming involves only games using charity game tickets;*
 - (b) *The charitable gaming is not part of a charity fundraising event; and*
 - (c) *The licensed charitable organization's deposits of gross receipts and adjusted gross receipts from charitable gaming total less than two thousand five hundred dollars (\$2,500) in the week prior to the deposit.*

Signed by Governor March 20, 2023.

CHAPTER 33

(HB 433)

AN ACT relating to financial institutions.

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

➔Section 1. KRS 286.9-080 is amended to read as follows:

- (1) Each license may be renewed for the ensuing twelve (12) ~~month~~^{months} period upon the timely submission of a completed renewal application and payment to the commissioner annually on or before ~~December 31~~^{June 20} of each year ~~of the following fees~~^{a license fee of}:
 - (a) Five hundred dollars (\$500) for the first location; and
 - (b) Five hundred dollars (\$500) for each additional location.
- (2) The commissioner may reinstate a license that has expired within thirty-one (31) days of the expiration of the license if the licensee pays:
 - 1. A late fee ~~in the amount~~ of one hundred dollars (\$100); and
 - 2. A reinstatement fee of five hundred dollars (\$500).
- (3) A license shall not be reinstated ~~when~~^{where} the renewal application, fees, or any required information is received ~~on or~~^{after} ~~January 31~~^{August 1} of the ~~following~~ year that the application was due.
- (4) *The commissioner may, by promulgation of an administrative regulation pursuant to KRS Chapter 13A, modify the dates for submissions under this section when necessary to:*
 - (a) *Implement uniform national licensing procedures; or*

(b) Facilitate common practices and procedures among the states.

➔ Section 2. KRS 286.9-010 is amended to read as follows:

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

- (1) "Affiliate" means a person who directly or indirectly through one (1) or more intermediaries controls or is controlled by, or is under common control with, a licensee;
- (2) "Applicant" means a person filing an application or renewal application for a license in accordance with this subtitle;
- (3) "Archive" means to copy data to a long-term storage mechanism apart from the database;
- (4) "Cashing" means providing currency for a payment instrument;
- (5) "Check" means any check, draft, money order, personal money order, travelers' check, or other demand instrument for the transmission or payment of money;
- (6) "Check cashing license" means a license issued pursuant to this subtitle by the commissioner to conduct the business of cashing checks in this Commonwealth;
- (7) "Closed" or "close" means that one (1) of the following has occurred in connection with a deferred deposit service transaction concerning the customer's payment instrument:
 - (a) The payment instrument is redeemed by the customer by payment to the licensee of the face amount of the payment instrument in cash;
 - (b) The payment instrument is exchanged by the licensee for a cashier's check or cash from the customer's financial institution;
 - (c) The payment instrument is deposited, **or submitted as an electronic check pursuant to federal law and with specific customer authorization to do so**, by the licensee, and the licensee has evidence that the person has satisfied the obligation;
 - (d) The payment instrument is collected by the licensee or its agent through any civil remedy available under the laws of this state; or
 - (e) Any other reason that the commissioner may deem to be proper under this subtitle;
- (8) "Consideration" means any premium or fee charged of any kind for the sale of goods or services in excess of the cash price of the goods or services;
- (9) "Control" means:
 - (a) Ownership of, or the power to vote, directly or indirectly, twenty-five percent (25%) or more of a class of voting securities or voting interests of a licensee or applicant, or the person in control of a licensee or applicant;
 - (b) The power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority over a licensee or applicant, or the person in control of a licensee or applicant; or
 - (c) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or applicant, or the person in control of a licensee or applicant;
- (10) "Customer" means a person who inquires into the availability of or applies for a deferred presentment service transaction or a person who enters into a deferred presentment service transaction;
- (11) "Customer transaction data" means all data reported to the database pertinent to a particular customer transaction, including the date of the transaction, identification of the licensee and location, the sum of money involved, the time payment is deferred, fees charged, any alleged violations of this subtitle, and any identifying customer information;
- (12) "Database" means the database described in KRS 286.9-140;
- (13) "Database provider" means one (1) of the following:
 - (a) A third-party provider selected by the commissioner in accordance with KRS 286.9-140 to operate the statewide database described in that section; or

- (b) The commissioner, if the commissioner has not selected a third-party provider in accordance with KRS 286.9-140;
- (14) "Deferred deposit service business" means a person who engages in deferred deposit transactions;
- (15) "Deferred deposit service business license" means a license issued in accordance with this subtitle by the commissioner to conduct check cashing and deferred deposit service business in this Commonwealth;
- (16) "Deferred deposit transaction" or "deferred presentment service transaction" means, for consideration, accepting a payment instrument, and holding the payment instrument for a period of time prior to deposit or presentment in accordance with an agreement with or any representation made to the customer whether express or implied;
- (17) "Delete" means to erase data by overwriting the data;
- (18) "Identifying customer information" means the name of the customer, his or her Social Security number, driver license number, or other state-issued identification number, address, any account numbers or information specific to a payment instrument provided by a customer to a licensee, a bank, savings bank, savings and loan association, or credit union, and any other nonpublic, personal financial information of a customer entered into the database or that comes into the possession of the database provider through customer or licensee inquiry or report;
- (19) "Licensee" means a person who has been issued either a check cashing license or a deferred deposit service business license by the commissioner in accordance with this subtitle to conduct check cashing or deferred deposit service business in the Commonwealth;
- (20) "Maturity date" means the date on which a payment instrument is authorized to be redeemed or presented for payment; and
- (21) "Payment instrument" means a check, draft, money order, or traveler's check, for the transmission or payment of money sold or issued to one (1) or more persons, whether or not such instrument is negotiable.

➔Section 3. KRS 286.9-100 is amended to read as follows:

- (1) Any fee charged by a licensee for cashing a check or entering into a deferred deposit transaction shall be disclosed in writing to the bearer of the check prior to cashing the check or entering into a deferred deposit transaction, and the fee shall be deemed a service fee and not interest. A licensee shall not charge a service fee in excess of fifteen dollars (\$15) per one hundred dollars (\$100) on the face amount of the deferred deposit check. A licensee shall prorate any fee, based upon the maximum fee of fifteen dollars (\$15) per one hundred dollars (\$100). This service fee shall be for a period of at least fourteen (14) days.
- (2) Before a licensee shall deposit with any bank or other depository institution a check cashed by the licensee, the check shall be endorsed with the actual name under which the licensee is doing business.
- (3) No licensee shall cash a check payable to a payee other than a natural person unless the licensee has previously obtained appropriate documentation from the board of directors or similar governing body of the payee clearly indicating the authority of the natural person or persons cashing the check, draft, or money order on behalf of the payee.
- (4) No licensee shall indicate through advertising, signs, billhead, or otherwise that checks may be cashed without identification of the bearer of the check; and any person seeking to cash a check shall be required to submit reasonable identification as prescribed by the commissioner. The provisions of this subsection shall not prohibit a licensee from cashing a check simultaneously with the verification and establishment of the identity of the presenter by means other than the presentation of identification.
- (5) Within two (2) business days after being advised by a financial institution that a payment instrument has been altered, forged, stolen, obtained through fraudulent or illegal means, negotiated without proper legal authority, or otherwise represents the proceeds of illegal activity, the licensee shall notify the commissioner and the prosecutor or law enforcement authority in the county in which the check was received. If a payment instrument is returned to the licensee by a financial institution for any of these reasons, the licensee shall not release the payment instrument without the written consent of the prosecutor or law enforcement authority, or a court order.
- (6) No licensee shall alter or delete the date on any payment instrument accepted by the licensee.
- (7) No licensee shall engage in unfair or deceptive acts, practices, or advertising in the conduct of the licensed business.

- (8) No licensee shall require a customer to provide security for the transaction or require the customer to provide a guaranty from another person.
- (9) A licensee shall not have more than two (2) deferred deposit transactions from any one (1) customer at any one time. The total proceeds received by the customer from all of the deferred deposit transactions shall not exceed five hundred dollars (\$500).
- (10)
 - (a) Prior to the establishment of the common database of deferred deposit transactions established by KRS 286.9-140, each licensee shall inquire of any customer seeking to present a deferred deposit transaction, whether the customer has any outstanding deferred deposit transactions from any licensee.
 - (b) If the customer represents in writing that the customer has no more than one (1) deferred deposit transaction outstanding to any licensee and that the total proceeds received by the customer from the outstanding deferred deposit transaction issued by the customer does not equal or exceed five hundred dollars (\$500), a licensee may accept a deferred deposit transaction in an amount that, when combined with the customer's other outstanding deferred deposit transaction, does not exceed five hundred dollars (\$500) of total proceeds received by the customer.
 - (c) If the customer represents in writing that the customer has more than one (1) deferred deposit transaction outstanding to licensees or if the total proceeds received by the customer from the deferred deposit transactions equal or exceed five hundred dollars (\$500), a licensee shall not enter into another deferred deposit transaction with that customer until the customer represents to the licensee in writing that the customer qualifies to enter into a new deferred deposit transaction under the requirements set forth in this subtitle.
 - (d) If the database described in KRS 286.9-140 is unavailable due to technical difficulties with the database, as determined by the commissioner, the licensee shall utilize the process established in this subsection to verify deferred deposit transactions.
- (11) A licensee shall not use any device or agreement, including agreements with an affiliate of a licensee, with the intent to obtain greater charges than are authorized in this subtitle.
- (12) No licensee shall agree to hold a deferred deposit transaction for more than sixty (60) days.
- (13)
 - (a) Each deferred deposit transaction shall be made according to a written agreement that shall be dated and signed by the customer and the licensee or an authorized agent of the licensee at the licensed location, and made available to the commissioner upon request. The customer shall receive a copy of this agreement.
 - (b) ***A licensee shall not require a customer to provide authorization for the licensee to submit an original payment instrument electronically before entering into a deferred deposit transaction.***
- (14) A licensee or its affiliate shall not for a fee renew, roll over, or otherwise consolidate a deferred deposit transaction for a customer.
- (15) No individual who enters into a deferred deposit transaction with a licensee shall be convicted under the provisions of KRS 514.040.
- (16) No licensee who enters into a deferred deposit transaction with an individual shall prosecute or threaten to prosecute an individual under the provisions of KRS 514.040.
- (17) Each licensee shall conspicuously display in each of its deferred deposit business locations a sign supplied by the commissioner that gives the following notice: "No person who enters into a post-dated or deferred deposit transaction with this business establishment will be prosecuted for or convicted of writing cold checks or of theft by deception under the provisions of KRS 514.040."
- (18) A licensee may not enter into a deferred deposit transaction with a customer who has two (2) open deferred deposit transactions.
- (19) A licensee shall verify a customer's eligibility to enter into a deferred presentment service transaction by doing one (1) of the following, as applicable:
 - (a) If the commissioner has not implemented a database under KRS 286.9-140 or the database described in KRS 286.9-140 is not fully operational, as determined by the commissioner, the licensee shall verify that the customer meets the eligibility requirements for a deferred presentment service transaction under this subtitle. The licensee shall maintain a database of all of the licensee's transactions at all of its locations and search that database to meet its obligation under this subtitle.

- (b) If the commissioner has implemented a database under KRS 286.9-140 and the database described in that section is fully operational, as determined by the commissioner, the licensee shall promptly and accurately access the database through an Internet real-time connection, and verify that the customer meets the eligibility requirements for a deferred presentment service transaction under this subtitle.

Signed by Governor March 20, 2023.

CHAPTER 34

(SB 119)

AN ACT relating to sex offenses.

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

➔Section 1. KRS 403.720 is amended to read as follows:

As used in KRS 403.715 to 403.785:

- (1) "Domestic animal" means a dog, cat, or other animal that is domesticated and kept as a household pet, but does not include animals normally raised for agricultural or commercial purposes;
- (2) "Domestic violence and abuse" means:
 - (a) Physical injury, serious physical injury, stalking, sexual ~~assault~~~~[abuse]~~, strangulation, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual ~~assault~~~~[abuse]~~, strangulation, or assault between family members or members of an unmarried couple; or
 - (b) Any conduct prohibited by KRS 525.125, 525.130, 525.135, or 525.137, or the infliction of fear of such imminent conduct, taken against a domestic animal when used as a method of coercion, control, punishment, intimidation, or revenge directed against a family member or member of an unmarried couple who has a close bond of affection to the domestic animal;
- (3) "Family member" means a spouse, including a former spouse, a grandparent, a grandchild, a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;
- (4) "Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 that was issued on the basis of domestic violence and abuse;
- (5) "Global positioning monitoring system" means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;
- (6) "Member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together;
- (7) "Order of protection" means an emergency protective order or a domestic violence order and includes a foreign protective order;
- (8) ***"Sexual assault" refers to conduct prohibited as any degree of rape, sodomy, or sexual abuse under KRS Chapter 510 or incest under KRS 530.020, or a criminal attempt, conspiracy, facilitation, or solicitation to commit rape, sodomy, sexual abuse, or incest;***
- (9) "Strangulation" refers to conduct prohibited by KRS 508.170 and 508.175, or a criminal attempt, conspiracy, facilitation, or solicitation to commit the crime of strangulation; and
- ~~(10)~~~~(9)~~ "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property, including a domestic animal, of an individual protected by an order of protection.

➔Section 2. KRS 510.010 is amended to read as follows:

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

- (1) "Deviate sexual intercourse" means any act of sexual gratification involving the sex organs of one person and the mouth or anus of another; or penetration of the anus of one person by any body part or a foreign object manipulated by another person. "Deviate sexual intercourse" does not include penetration of the anus by any body part or a foreign object in the course of the performance of generally recognized health-care practices;
- (2) "Forcible compulsion" means physical force or threat of physical force, express or implied, which places a person in fear of immediate death, physical injury to self or another person, fear of the immediate kidnap of self or another person, or fear of any offense under this chapter. Physical resistance on the part of the victim shall not be necessary to meet this definition;
- (3) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;
- (4) "Individual with an intellectual disability" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;
- (5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct as a result of the influence of an intoxicating substance administered to him or her without his or her consent or as a result of any other act committed upon him or her without his or her consent;
- (6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act. "Physically helpless" also includes a person who has been rendered unconscious or for any other reason is physically unable to communicate an unwillingness to an act as a result of the influence of a controlled substance or legend drug;
- (7) "Sexual contact" *means the touching of a person's intimate parts or the touching of the clothing or other material intended to cover the immediate area of a person's intimate parts, if that touching can be construed by a reasonable person as being done:*
 - (a) *For the purpose of sexual arousal or gratification of either party;*
 - (b) *For a sexual purpose; or*
 - (c) *In a sexual manner for the purpose of:*
 1. *Exacting revenge or retribution;*
 2. *Humiliating or degrading; or*
 3. *Punishment*~~means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party;~~
- (8) "Sexual intercourse" means sexual intercourse in its ordinary sense and includes penetration of the sex organs of one person by any body part or a foreign object manipulated by another person. Sexual intercourse occurs upon any penetration, however slight; emission is not required. "Sexual intercourse" does not include penetration of the sex organ by any body part or a foreign object in the course of the performance of generally recognized health-care practices;
- (9) "Foreign object" means anything used in commission of a sexual act other than the person of the actor;
- (10) "Registrant" has the same meaning as in KRS 17.500; and
- (11) "Adult intermediary" means a person who is age eighteen (18) years or older, who communicates with another for the purpose of procuring or promoting the use of a minor in violation of KRS 510.155.

Signed by Governor March 20, 2023.

AN ACT relating to state government.

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

➔Section 1. KRS 18A.005 is amended to read as follows:

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

- (1) "Appointing authority" means the agency head or any person whom he *or she* has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, or other position actions. Such designation shall be in writing and signed by both the agency head and his *or her* designee. Prior to the exercise of appointing authority, such designation shall be filed with the secretary;
- (2) "Base salary or wages" means the compensation to which an employee is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the provisions of KRS 18A.355 and 48.130;
- (3) "Board" means the Personnel Board created by KRS 18A.045;
- (4) "Career employee" ~~means~~~~shall mean~~ a state employee with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service *under this chapter*, the unclassified service *in the executive branch of state government*, or a combination thereof. *At least five (5) years of the combined service shall have been in the classified service under this chapter;*
- (5) "Certification" means the referral of the name of one (1) or more qualified prospective employees by the secretary on request of an appointing officer for consideration in filling a position in the classified service;
- (6) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;
- (7) "Classified employee" means an employee appointed to a position in the classified service *under this chapter* whose appointment and ~~continued~~ employment are subject to the classified service provisions of this chapter *and the administrative regulations promulgated under this chapter;*
- (8) "Classified position" means a position in the executive branch of state government that is not exempt from the classified service under KRS Chapter 16, KRS 18A.115, KRS Chapter 151B, or any other provision of law;
- (9) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;
- (10) "Secretary" means the secretary of the Personnel Cabinet as provided for in KRS 18A.015;
- (11) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range and less discretion or responsibility;
- (12) "Cabinet" means the Personnel Cabinet provided for in KRS 18A.015, unless the context indicates otherwise;
- (13) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.010 to 18A.200 or who has qualified to be placed on a register;
- (14) "Employee" means a person regularly appointed to a position in the state service for which he *or she* is compensated on a full-time, part-time, or interim basis;
- (15) "Federally funded time-limited employee" means an employee in the unclassified service, appointed to a position that is funded one hundred percent (100%) by a federal grant or grants. An employee appointed to a federally funded time-limited position shall be required to meet the minimum requirements for the classification in which he or she is hired and, subject to the provisions of KRS 18A.113, shall serve at the pleasure of the appointing authority during a period of time that shall not exceed the life of the federal grant that funds the position. A federally funded time-limited employee who has been aggrieved by notice of disciplinary action or termination, other than an action based on expiration of the federal grant funding, may petition the appointing authority of the agency for the opportunity to be heard by the appointing authority or his *or her* designee prior to the effective date of the disciplinary action or termination. The decision of the appointing authority shall be final except as provided by KRS 18A.095(14) and 18A.140. A federally funded

time-limited employee shall not have the right of appeal to the Personnel Board except as provided by KRS 18A.095(14) and 18A.140;

- (16) "Federally funded position" means a full-time or a part-time position in which the unclassified employee is eligible for benefits at the same level as a classified employee in a permanent position;
- (17) "Full-time employee" means an employee in a full-time position;
- (18) "Full-time position" means a position, other than an interim position, requiring an employee to work at least thirty-seven and one-half (37.5) hours in a work week, except for the following:
- (a) Positions in the state parks, where the work assigned is dependent upon fluctuations in tourism, may be assigned work hours from twenty-five (25) hours per week during the off seasons and remain in full-time positions; and
 - (b) Positions in health care facilities, which regularly involve three (3) consecutive days of twelve (12) hour shifts to cover weekends, shall be considered full-time;
- (19) "Initial probation" means the period of service following initial appointment to any position under KRS 18A.010 to 18A.200 which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. If the appointee is granted leave in excess of twenty (20) consecutive work days during this period, his *or her* initial probation shall be extended for the same length of time as the granted leave to cover such absence;
- (20) "Interim employee" means an unclassified employee without status who has been appointed to an interim position that shall be less than nine (9) months duration;
- (21) "Interim position" means a position established to address a one-time or recurring need of less than nine (9) months duration and exempt from the classified service under KRS 18A.115;
- (22) "Part-time employee" means an employee in a part-time position;
- (23) "Part-time position" means a position, other than an interim position, requiring an employee to work less than one hundred (100) hours per month;
- (24) ~~["Penalization" means demotion, dismissal, suspension, fines, and other disciplinary actions; involuntary transfers; salary adjustments; any action that increases or diminishes the level, rank, discretion, or responsibility of an employee without proper cause or authority, including a reclassification or reallocation to a lower grade or rate of pay; and the abridgment or denial of other rights granted to state employees;~~
- ~~(25)~~ "Position" means an office or employment in an agency (whether part-time, full-time, or interim, occupied, or vacant) involving duties requiring the services of one (1) person;
- ~~(25)~~~~(26)~~ "Promotion" means a change of rank of an employee from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;
- ~~(26)~~~~(27)~~ "Promotional probation" means the period of service, consistent with the length of the initial probationary period, following the promotion of an employee with status which must be successfully completed in order for the employee to retain the position to which he *or she* has been promoted. If the employee is granted leave in excess of twenty (20) consecutive work days during this period, his *or her* promotional probation shall be extended for the same length of time as the granted leave to cover such absence;
- ~~(27)~~~~(28)~~ "Qualifying" means the selection method type which results when the knowledge, skills, and abilities necessary for a job classification cannot be accurately measured by written examination;
- ~~(28)~~~~(29)~~ "Reallocation" means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employee has been and shall continue to perform;
- ~~(29)~~~~(30)~~ "Reclassification" shall mean the change in the classification of an employee when a material and permanent change in the duties or responsibilities of that employee has been assigned in writing by the appointing authority;
- ~~(30)~~~~(31)~~ "Reemployment" shall mean the rehiring of an employee with status who has been laid-off;

- (31)~~(32)~~ "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of ~~layoff~~~~lay-off~~. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;
- (32)~~(33)~~ "Register" means any official list of eligibles for a particular class and, except as provided in this chapter, placed in rank order according to the examination scores maintained for use in making original appointments or promotions to positions in the classified service;
- (33)~~(34)~~ "Reinstatement" means the privilege of restoration of an employee who has resigned in good standing at the option of the appointing authority, or who has been ordered reinstated by the board or a court to a position in his former class, or to a position of like status and pay;
- (34)~~(35)~~ "Reversion" means either the returning of a status employee to his or her last position held in the classified service, if vacant, or the returning of a status employee to a vacant position in the same or similar job classification as his or her last position held in the classified service. Reversion occurs after a career employee is terminated other than for cause from the unclassified service or after a status employee fails to successfully complete promotional probation. Reversion after unsuccessful completion of promotional probation, or in the case of a career employee after termination from the unclassified service, may only be appealed to the Personnel Board under KRS 18A.095(12);
- (35)~~(36)~~ "Seniority" means the total number of months of state service;
- (36)~~(37)~~ "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employee in the classified service; and
- (37)~~(38)~~ "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service, and the same salary received immediately prior to transfer.

➔Section 2. KRS 18A.030 is amended to read as follows:

- (1) The secretary shall be the executive and administrative head of the cabinet and shall supervise and control all examinations and work of the cabinet. He *or she* shall advise the board on matters pertaining to the classified service of this state. Within the limitations of the budget, the secretary shall appoint and supervise the staff needed in the cabinet to carry out the purposes of KRS 18A.005 to 18A.200 except employees of the board who shall be appointed as provided in KRS 18A.090.
- (2) Subject to the provisions of this chapter and KRS Chapter 13A, the secretary shall, with the aid of his *or her* staff:
 - (a) Attend all meetings of the board;
 - (b) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;
 - (c) Establish general procedures for personnel recruitment, for certification, and for improving the efficiency of employed personnel;
 - (d) Appoint the examiners and technicians necessary for the conduct of the personnel program, whether on a permanent or temporary basis;
 - (e) Prepare and maintain a record of all employees, showing for each employee his *or her* name, address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make the data and the class specifications for all positions available to the press and public;
 - (f) Prepare, in accordance with the provisions of KRS 18A.005 to 18A.200 and the administrative regulations adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;
 - (g) Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18A.005 to 18A.200;
 - (h) Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18A.005 to 18A.200 and administrative regulations prescribed thereunder;
 - (i) Prepare, in cooperation with appointing authorities and others, programs for employee training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of

effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department to this end;

- (j) Provide personnel services to unclassified employees in agreement with the agencies involved not otherwise provided for in KRS 18A.005 to 18A.200;
 - (k) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel system created by KRS 18A.005 to 18A.200, excluding the board, which shall present its own budget estimates;
 - (l) Make a report and submit the same to the board, the Legislative Research Commission, and the Governor not later than October first of each year;
 - (m) Propose selection method changes for any classification to the Personnel Board with documentation justifying the need for the selection method change. The Personnel Board shall, at its next regularly scheduled monthly meeting, review and comment on any proposed selection method change. A classification shall not have its selection method changed without review and comment by the Personnel Board;
 - (n) ***Perform a classification and compensation study at least once every five (5) years;*** and
 - (o)~~(n)~~ Discharge the other duties imposed upon him ***or her*** by KRS 18A.005 to 18A.200.
- (3) The secretary on behalf of the cabinet may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.
 - (4) The secretary shall keep records relative to employee turnover and report to the board, the Governor, and the Legislative Research Commission quarterly. The report shall reflect employee turnover rates by cabinet, department, bureau, division, and section. If any cabinet, department, bureau, division, or section has a turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the secretary shall conduct an investigation into the reasons for the turnover and report the findings to the board, the Governor, and the Legislative Research Commission.
 - (5) The secretary shall provide to each new state employee and to each existing state employee, classified or otherwise, on an annual basis an informational pamphlet about human immunodeficiency virus infection and acquired immunodeficiency syndrome. The pamphlet shall be approved by the Cabinet for Health and Family Services and shall contain information about the nature and extent of these diseases, methods of transmission, preventive measures, and referral services.
 - (6) The secretary shall establish and maintain a list of all filled positions exempted from classified service under KRS 18A.115(1) (e), (g), (h), (i), (k), (t), (w), (aa), and (ab). The list shall include the following information for each filled position:
 - (a) The name of the agency where the position is assigned;
 - (b) The statutory authority for the unclassified status of the position;
 - (c) The title of the position;
 - (d) The pay grade of the position;
 - (e) The annual salary of the employee in the position; and
 - (f) The work county of the employee in the position.
 - (7) Beginning September 1, 2010, and every six (6) months thereafter, the secretary shall provide the Governor and the Legislative Research Commission with a copy of the list described in subsection (6) of this section, and shall indicate on the list any position that has been added to the list since the last submission.
 - (8) The secretary shall perform organizational analysis and review.

➔Section 3. KRS 18A.032 is amended to read as follows:

- (1) Except as provided by the provisions of this chapter, the secretary may refuse to examine an applicant; or, after examination, may disqualify an applicant, remove his ***or her*** name from a register, refuse to certify any eligible on a register, or may consult with the appointing authority in taking steps to remove ~~the~~~~such~~ person already appointed if:

- (a) It is found that he *or she* does not meet any one (1) of the preliminary requirements established for the examination for the class of position;
 - (b) He *or she* is unable to perform the duties of the class;
 - (c) He *or she* has made a false statement of material fact in his *or her* application;
 - (d) He *or she* has used or attempted to use political pressure or bribery to secure an advantage in the examination;
 - (e) He *or she* has directly or indirectly obtained information regarding the examination to which, as an applicant, he *or she* was not entitled;
 - (f) He *or she* has failed to submit his *or her* application correctly or within the prescribed time limits;
 - (g) He *or she* has taken part in the compilation, administration, or correction of the examination for which he *or she* is an applicant;
 - (h) He *or she* has previously been dismissed from a position in the state service for cause or has resigned while charges for dismissal for cause of which he *or she* had knowledge were pending;
 - (i) He *or she* has been convicted of a felony within the preceding five (5) years and his *or her* civil rights have not been restored or he *or she* has not been pardoned by the Governor;
 - (j) He *or she* has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification; or
 - (k) He *or she* has otherwise willfully violated the provisions of this chapter.
- (2) An eligible may be removed from a register:
- (a) If the eligible cannot be located by postal authorities at the last address provided by the eligible;
 - (b) If the eligible responds in writing that he *or she* no longer desires consideration for position in that class;
 - (c) If the eligible declines an offer of probationary appointment to the class for which the register was established;
 - (d) If it is shown that the eligible is not qualified or is unsuitable for appointment to the class for which the register is established;
 - (e) If the eligible fails to reply within a period of ten (10) calendar days of the receipt of the written request of the appointing authority for an interview, or fails to appear for an interview which he *or she* has scheduled with the appointing authority without good cause;
 - (f) If the eligible accepts an appointment and fails to present himself *or herself* for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority; ~~or~~
 - (g) If the eligible states in writing that he *or she* is not available for appointment or does not wish to be considered for appointment; *or*
 - (h) *If the eligible demonstrates erratic, unsafe, or threatening behavior.***
- (3) When an eligible notifies the cabinet in writing that he *or she* is unavailable for employment or employment consideration, the cabinet may remove the name of that eligible from the appropriate register without further notification to the person.
- (4) When the cabinet is notified in writing by an appointing authority that an eligible has accepted a bona fide offer of probationary appointment to any position, effective on a specified date, his *or her* name may be removed from the register for all classes for which the maximum salary is the same or less than that of the class to which he *or she* has been appointed.
- ➔Section 4. KRS 18A.0551 is amended to read as follows:
- (1) (a) Elections to the board shall be scheduled every four (4) years on or before June 15. The **Personnel Cabinet** ~~board~~ shall provide written *or electronic* notification of the date of the election to all classified employees on or before April 1; and
 - (b) Upon receipt of the notification provided for by paragraph (a) of this subsection, **a classified** ~~an~~ employee wishing to serve on the board shall notify the board, in writing *or electronically*, no later than

May 15. This notification ~~[shall be notarized and]~~ shall include the candidate's name, address, unique personal identification number, job classification, ~~[and]~~ length of state employment, *and* ~~[. It shall also include the]~~ name ~~[and address]~~ of his *or her* current employer.

- (2) ~~[On the last working day of April,]~~The cabinet shall *determine which employees are eligible to vote in the Personnel Board election as of the last calendar day in April* ~~[certify a payroll listing to the board that is current on such day and that contains the name, unique personal identification number, and home address of every classified employee].~~
- (3) At least ten (10) working days prior to the election provided for in subsection (1) of this section, the ~~cabinet~~ ~~[board]~~ shall *notify* ~~[mail to]~~ each classified employee *identified in subsection (2) of this section of the upcoming election and include in the notification a ballot and instructions for voting* ~~[whose name appeared on the payroll listing certified by the cabinet at his home address:~~
- (a) ~~— A list of candidates for election to the board;~~
 - (b) ~~— Instructions for voting;~~
 - (c) ~~— A ballot listing the names of all candidates for election to the board; and~~
 - (d) ~~— An envelope for returning the ballot should the classified employee wish to return the ballot by first-class mail].~~
- (4) Upon receipt of *the* ~~[his]~~ ballot, a classified employee wishing to participate in the election provided for in subsection (1) of this section shall:
- (a) Vote for no more than two (2) candidates on the ballot, following the *cabinet's* instructions for voting; *and*
 - (b) *Submit* ~~[Print his or her unique personal identification number on the ballot in the space provided on the ballot; and~~
 - (c) ~~— Deliver]~~ the ballot ~~[to the board]~~ by *the* ~~[any]~~ means *and* ~~[, including first class mail, facsimile, scanned e-mail, or hand delivery. Ballots shall arrive at the board's principal address no later than the date of the election or be postmarked on or before the]~~ date *specified by the cabinet* ~~[of the election].~~
- (5) The *cabinet* ~~[board]~~ shall:
- (a) ~~[Select an impartial third party to]~~Receive, validate, and tabulate all returned *votes* ~~[ballots as provided by this subsection and subsection (6) of this section]; and~~
 - (b) *Transmit the results to the board* ~~[Provide the impartial third party with a computer-generated list of the unique personal identification numbers of eligible voters in numerical order].~~
- (6) ~~[The impartial third party selected by the board shall collect all ballots from the board and:~~
- (a) ~~— Set aside, untabulated, any envelope postmarked with, or ballot stamped as received at the board on, a date subsequent to the deadline provided for by this section;~~
 - (b) ~~— Verify the unique personal identification number on the ballot by comparing the number to the computer-generated list of unique personal identification numbers of eligible voters provided by the cabinet;~~
 - (c) ~~— Set aside, untabulated, any ballot containing a unique personal identification number that does not match the unique personal identification number appearing next to the name on the computer-generated list;~~
 - (d) ~~— Tabulate the timely ballots;~~
 - (e) ~~— Compare the total tabulated vote with the total number of eligible employees appearing on the computer-generated list provided by the cabinet;~~
 - (f) ~~— Return the ballots; envelopes, including envelopes that have not been opened; and other election material to the board; and~~
 - (g) ~~— Certify to the board:~~
 - 1. ~~— That the tabulation does not include two (2) or more ballots with the same unique personal identification number;~~
 - 2. ~~— The total number of ballots received;~~

3. ~~The total number of ballots not included in the tabulation, and the reason each such ballot was not included in the tabulation;~~
4. ~~The total number of ballots included in the tabulation; and~~
5. ~~The total vote for each candidate.~~
- (7) ~~]For at least sixty (60) days after the completion of the tabulation provided for by subsection (5)~~(6)~~ of this section, the~~[ballots, envelopes, and other]~~ election materials~~[provided for by this section]~~ shall be public record and open to inspection, **however any personally identifiable information, including**~~[but the]~~ home addresses and unique personal identification numbers of the eligible employees and voters, shall be redacted prior to public inspection or disclosure.~~
- (7)~~(8)~~ The two (2) **eligible** candidates receiving the greatest number of votes shall be declared the successful candidates. In the event of a tie vote, the tie shall be broken by a coin toss in the presence of the candidates receiving the tie vote.
- (8)~~(9)~~ Successful candidates shall be notified by the board no later than ten (10) working days after the election. Successful candidates shall take office immediately upon notification.
- (9)~~(10)~~ State employees may use state materials or equipment, except for state-paid first-class postage, to vote in the election of classified employees to the board. Except for voting in accordance with this section, any activity related to the election of a classified employee to the board shall not be conducted during working hours.
- (10) **The secretary may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section.**
- ➔Section 5. KRS 18A.095 is amended to read as follows:
- (1) A classified employee with status shall not be dismissed, demoted, suspended **without pay**, or **involuntarily transferred**~~[otherwise penalized]~~ except for cause.
- (2) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him **or her**. The notice shall also state:
- (a) The specific reasons for dismissal including:
1. The statutory,~~[or]~~ regulatory, **or policy** violation;
 2. The specific action or activity on which the intent to dismiss is based;
 3. The date~~[, time,]~~ and place of such action or activity; and
 4. The **names**~~[name]~~ of the parties involved;
- (b) That the employee has the right to appear personally, or with counsel if he **or she** has retained counsel, to reply to the **appointing authority**~~[head of the cabinet or agency]~~ or his **or her** designee; and
- (c) Whether the employee is placed on administrative leave by the appointing authority with pay upon receiving the intent to dismiss letter prior to the agency's final action.
- (3) The Personnel Cabinet shall prescribe and distribute a **pretermination** form to be completed and forwarded by an employee who wishes to appear before the~~[head of the cabinet or agency or his designee, to each]~~ appointing authority **or his or her designee**. The form shall be attached to every notice of intent to dismiss and shall contain written instructions explaining:
- (a) The right granted an employee under the provisions of this section relating to pretermination hearings; and
- (b) The time limits and procedures to be followed by all parties in pretermination hearings.
- (4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he **or she** receives the notice, the employee may request to appear, personally or with counsel if he **or she** has retained counsel, to reply to the **appointing authority**~~[head of the cabinet or agency]~~ or his **or her** designee.
- (5) Unless **agreed to by the appointing authority or his or her designee and**~~[waived by]~~ the employee, the appearance shall be scheduled within six (6) working days after receipt of an employee's request to appear before the **appointing authority**~~[head of the cabinet or agency]~~ or his **or her** designee, excluding the day his **or her** request is received.

- (6) No later than five (5) working days after the employee appears before the **appointing authority**~~[head of the cabinet or agency]~~ or his **or her** designee, excluding the day of the appearance, the cabinet head or agency or his **or her** designee shall:
- (a) Determine whether to dismiss the employee or to ~~[alter,]~~ modify~~[,]~~ or rescind the intent to dismiss; and
 - (b) Notify the employee in writing of the decision.
- (7) If the **appointing authority**~~[cabinet or agency head]~~ or his **or her** designee determines that the employee shall be dismissed~~[or otherwise penalized]~~, the employee shall be notified in writing of:
- (a) The effective date of his **or her** dismissal~~[or other penalization]~~;
 - (b) The specific reason for **the dismissal**~~[this action]~~, including:
 1. The statutory,~~[or]~~ regulatory, **or policy** violation;
 2. The specific action or activity on which the dismissal~~[or other penalization]~~ is based;
 3. The date~~[, time,]~~ and place of the action or activity; and
 4. The **names**~~[name]~~ of the parties involved; and
 - (c) That he **or she** may appeal the dismissal~~[or other penalization]~~ to the board within **thirty (30) calendar**~~[sixty (60)]~~ days after receipt of this notification, excluding the day he **or she** receives notice.
- (8) A classified employee with status who is demoted, suspended **without pay**, or **involuntarily transferred**~~[otherwise penalized]~~ shall be notified in writing of:
- (a) The demotion, suspension, or **involuntary transfer**~~[other penalization]~~;
 - (b) The effective date of the demotion, suspension, or **involuntary transfer**~~[other penalization]~~;
 - (c) The specific reason for the **demotion, suspension, or involuntary transfer**~~[action]~~ including:
 1. The statutory,~~[or]~~ regulatory, **or policy** violation;
 2. The specific action or activity on which the demotion, suspension, or **involuntary transfer**~~[other penalization]~~ is based;
 3. The date~~[, time,]~~ and place of the action or activity; and
 4. The **names**~~[name]~~ of the parties involved; and
 - (d) That he or she has the right to appeal to the board within **thirty (30) calendar**~~[sixty (60)]~~ days, excluding the day that he or she received notification of the personnel action.
- (9) Any unclassified employee who is dismissed, demoted, suspended **without pay**, or **involuntarily transferred**~~[otherwise penalized]~~ for cause may, within thirty (30) **calendar** days after the dismissal, demotion, suspension, or **involuntary transfer**~~[other form of penalization]~~, appeal to the board for review thereof.
- (10) (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:
1. The reallocation **or reclassification**; and
 2. **If the reallocation or reclassification is to a lower grade**, his **or her** right to request reconsideration by the secretary within ten (10) working days of receipt of the notice, excluding the day he **or she** receives notification.
- (b)~~[He shall be provided with a form prescribed by the secretary on which to request reconsideration.]~~
- (e)~~]~~ The employee shall file a written request for reconsideration of the reallocation **or reclassification to a lower grade**~~[of his position]~~ with the secretary in a manner and form prescribed by the secretary and shall be given a reasonable opportunity to be heard~~[thereon]~~ by the secretary. The secretary shall make a determination within sixty (60) **calendar** days after the request has been filed by an employee. **The secretary's determination shall be final and shall not be appealable to the Personnel Board**~~[After reconsideration of the request by the secretary, the employee may appeal to the board].~~
- (11) (a) ~~[Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant, or eligible,~~

~~and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.~~

- (12) ~~Any~~ *applicant, classified employee, or federally funded time-limited employee* may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, ~~for~~ age forty (40) and above, *or any other category protected under state or federal civil rights laws.* Nothing in this section shall be construed to preclude any *applicant, classified employee, or unclassified employee* from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.
- (b) *Appeals alleging discrimination shall be filed within thirty (30) calendar days after the alleged discriminatory action occurred.*
- (12) (a) *Any applicant for classified employment under KRS Chapter 18A who has been notified by the Personnel Cabinet that he or she did not meet the minimum qualifications for a position may request reconsideration from the secretary not more than ten (10) calendar days after the notification was sent. The secretary's review and determination of the reconsideration shall be completed within ten (10) calendar days from the receipt of the request for reconsideration. The secretary's determination shall be final and shall not be appealable to the Personnel Board.*
- (b) *Any applicant for employment in a classified position under KRS Chapter 18A may appeal the hiring agency's nonselection based on an alleged violation of appointment and promotion provisions contained in this chapter or administrative regulations promulgated under this chapter to the board. The appeal shall be filed not later than thirty (30) calendar days after the notice of nonselection was mailed or sent electronically.*
- (13) *When an employee who qualifies for a position has his or her name removed from the register, the employee may petition the secretary for the opportunity to be heard by the secretary or his or her designee. The petition shall be delivered to the secretary in writing or electronically no later than ten (10) calendar days after the removal notification has been sent. The secretary's decision shall be final and not appealable to the Personnel Board*~~[an eligible's name is removed from a register, the secretary shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the secretary or in accordance with the decision of the board.~~
- (14) (a) ~~Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board.~~
- (b) ~~Any applicant whose application for admission to an open competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the secretary pending reconsideration by the board.~~
- (c) ~~Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly.~~
- (d) ~~An appeal to the board by applicants or eligibles under subsections (11) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.~~
- (15) ~~An evaluation may be appealed to the board if an employee has complied with the review procedure established in KRS 18A.110(7)(j).~~
- (14)~~(16)~~ (a) Appeals to the board shall be in writing on an appeal form prescribed by the board.~~[Appeal forms shall be available at the employee's place of work.]~~ The Personnel **Board**~~[Cabinet]~~ shall be responsible for the distribution of these forms.
- (b) The appeal form shall be attached to any notice~~[, or copy of any notice,]~~ of dismissal, demotion, suspension, ~~or~~~~[fine,]~~ involuntary transfer~~[, or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section.]~~. The appeal form shall instruct the

employee to state whether he *or she* is a classified or unclassified employee, his *or her* full name, his *or her* appointing authority, work station address and telephone number, *home address and personal telephone number, personal email address*, and, if he *or she* has retained counsel at the time he *or she* files an appeal, the name, address, and telephone number of his *or her* attorney.

- (c) The form shall also instruct a classified employee to state the action he *or she* is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his *or her* dismissal, *demotion, suspension, or involuntary transfer*.
 - (d) *Any appeal form filed by a classified or unclassified employee shall identify the statute, administrative regulation, or policy that was allegedly violated.*
 - (e) Upon receipt of the appeal by the board, the appointing authority and the Personnel Cabinet shall be notified and the board shall schedule a hearing.
- (15)~~(17)~~ All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.
- (16)~~(18)~~ (a) The board ~~shall~~~~may~~ deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he *or she* has been dismissed, *demoted, suspended without pay, or involuntarily transferred*. The board ~~shall~~~~may~~ deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his *or her* right to appeal the denial under the provisions of KRS 18A.100.
- (b) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.
- (17)~~(19)~~ Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:
- (a) Employ class action procedures; or
 - (b) Conduct test representative cases.
- (18)~~(20)~~ Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.
- (19)~~(21)~~ An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any nonelected member of the board, or any hearing officer secured by the board pursuant to KRS 13B.030.
- (20)~~(22)~~ (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his *or her* political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately reinstate the employee to his *or her* former position or a position of like status and pay, without loss of pay for the period of *time at issue*~~his penalization~~, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal.
- (b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his *or her* former position or a position of like status and pay, without loss of pay for the period of *time at issue*~~his penalization~~, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal.
- (c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to ~~alter,~~ modify~~;~~ or rescind the ~~disciplinary~~ action *at issue*.
- (d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.

- ~~(21)~~~~(23)~~ If a final order of the board is appealed, a court ~~may~~~~shall~~ award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to the hearing before the board.
- ~~(22)~~~~(24)~~ When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his *or her* name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he *or she* had been removed.
- ~~(23)~~~~(25)~~ After a final decision has been rendered by the board or court, an employee who prevails in his *or her* appeal ~~may~~~~shall~~ be credited with the amount of leave time used for time spent at his *or her* hearing before the board or court. Employees who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.
- ~~(24)~~~~(26)~~ If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his *or her* former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.
- ~~(25)~~~~(27)~~ After a final decision in a contested case has been rendered by the last administrative or judicial body to which the case has been appealed, the board shall make the decision available to the public in electronic format on its ~~website~~~~Web site~~ and shall organize the decisions according to the statutory basis for which the appeal was based.
- (26) Appeals concerning dismissals of classified employees with status shall take precedence for hearings before the board over all other appeals.**
- (27) Any classified or unclassified employee as defined in Section 1 of this Act who is not restored to a position pursuant to KRS 61.371 to 61.377, or who is dismissed without cause within one (1) year after reinstatement, may appeal to the Personnel Board. The appeal shall be filed in writing with the executive director of the board not later than thirty (30) days after the notification of the action in question has been mailed or sent electronically.**
- (28) If an individual received a notice that does not comply with subsection (7)(c), (8)(d), or (14)(b) of this section, or received no written or electronic notification of his or her dismissal, demotion, suspension, or involuntary transfer pursuant to subsection (7) or (8) of this section, he or she shall file his or her appeal to the board within one hundred eighty (180) days of:**
- (a) Receipt of the written notice, if he or she received a written notice that does not comply with subsection (7)(c), (8)(d), or (14)(b); or**
 - (b) The alleged act, if he or she did not receive written or electronic notification of the alleged act in question.**
- (29) If a classified or unclassified employee refuses or fails to cooperate as a witness in an agency, Personnel Cabinet, or board investigation, hearing, proceeding, or inquiry, the employee may be subject to disciplinary action.**
- (30) Unless otherwise provided by this chapter, the board shall not have jurisdiction over any appeal except as authorized by this section**

~~For the purposes of subsections (2), (3), (4), (5), (6), and (7) of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.~~

~~(29) Notwithstanding any other prescribed limitation of action, an employee that has been penalized, but has not received a written notice of his or her right to appeal as provided in this section, shall file his or her appeal with the Personnel Board within one (1) year from the date of the penalization or from the date that the employee reasonably should have known of the penalization].~~

➔Section 6. KRS 18A.110 (Effective April 1, 2023) is amended to read as follows:

- (1) The secretary shall promulgate comprehensive administrative regulations for the classified service governing:
- (a) Applications and examinations;
 - (b) Certification and selection of eligibles;
 - (c) Classification and compensation plans;

- (d) Incentive programs;
 - (e) *Layoffs*~~[Lay-offs]~~;
 - (f) Registers;
 - (g) Types of appointments;
 - (h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, living organ donor, and special leaves of absence, provided that the secretary shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985; and
 - (i) Employee evaluations.
- (2) The secretary shall promulgate comprehensive administrative regulations for the unclassified service.
- (3) (a) Except as provided by KRS 18A.355, the secretary shall not promulgate administrative regulations that would reduce an employee's salary; and
- (b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.
- (4) The secretary may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.
- (5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;
- (b) Administrative regulations promulgated by the secretary shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and
- (c) No administrative body other than the Personnel Cabinet shall promulgate administrative regulations governing the subject matters specified in this section.
- (6) Prior to filing an administrative regulation with the Legislative Research Commission, the secretary shall submit the administrative regulation to the board for review.
- (a) The board shall review the administrative regulation proposed by the secretary not less than twenty (20) days after its submission to it;
- (b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the secretary;
- (c) The secretary shall review the recommendations of the board and may revise the proposed administrative regulation if he *or she* deems it necessary; and
- (d) After the secretary has completed the review provided for in this section, he *or she* may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.
- (7) The administrative regulations shall provide:
- (a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class. The secretary shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The secretary shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;
- (b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the state budget director. The plan shall take into account such factors as:
1. The relative levels of duties and responsibilities of various classes of positions;

2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and
3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he *or she* is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

- (c) For *the advertisement and acceptance of* ~~open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly and~~ applications *for* ~~accepted~~ at least *five (5)* ~~ten (10)~~ days *for those positions to be filled by classified appointment or promotion* ~~prior to certification of a register, and may be advertised through the press, radio, and other media~~. The secretary *may* ~~shall~~ continue to receive applications and *review applicants* ~~examine candidates~~ on a continuous basis long enough to *ensure* ~~assure~~ a sufficient number of *applicants* ~~eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The secretary shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;~~
- ~~(d)~~ As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the secretary for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;
- ~~(d)~~ ~~(e)~~ For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the secretary in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;
- ~~(e)~~ ~~(f)~~ Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;
- ~~(f)~~ ~~(g)~~ For annual, sick, and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);
- ~~(g)~~ ~~(h)~~ For *layoffs* ~~lay-offs~~, in accordance with the provisions of *Section 7 of this Act* ~~KRS 18A.113, 18A.1131, and 18A.1132~~, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;
- ~~(h)~~ ~~(i)~~ For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility without written examination;
- ~~(i)~~ ~~(j)~~ For a uniform system of annual employee evaluation for classified employees, with status, that shall be considered in determining eligibility for discretionary salary advancements, promotions, and disciplinary actions. The administrative regulations shall:
1. Require the secretary to determine the appropriate number of job categories to be evaluated and a method for rating each category;
 2. Provide for periodic informal reviews during the evaluation period which shall be documented on the evaluation form and pertinent comments by either the employee or supervisor may be included;
 3. Establish a procedure for internal dispute resolution with respect to the final evaluation rating;
 4. Permit a classified employee, with status, who receives either of the two (2) lowest possible evaluation ratings to appeal to the Personnel Board for review after exhausting the internal

dispute resolution procedure. The final evaluation shall not include supervisor comments on ratings other than the lowest two (2) ratings;

5. Require that an employee who receives the highest possible rating shall receive the equivalent of two (2) workdays, not to exceed sixteen (16) hours, credited to his or her annual leave balance. An employee who receives the second highest possible rating shall receive the equivalent of one (1) workday, not to exceed eight (8) hours, credited to his or her annual leave balance; and
6. Require that an employee who receives the lowest possible evaluation rating shall either be demoted to a position commensurate with the employee's skills and abilities or be terminated; and

~~(j)(4)~~ For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

- (8) For any individual hired or elected to office before January 1, 2015, and paid through the Kentucky Human Resources Information System, the Personnel Cabinet shall not require payroll payments to be made by direct deposit or require the individual to use a web-based program to access his or her salary statement.
- (9) To the extent that KRS 16.010 to 16.199, 16.080, and 16.584 and administrative regulations promulgated by the commissioner of the Department of Kentucky State Police under authority granted in KRS Chapter 16 conflict with this section or any administrative regulation promulgated by the secretary pursuant to authority granted in this section, the provisions of KRS Chapter 16 shall prevail.

➔SECTION 7. KRS 18A.113 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Furlough" or "reduction in hours" means the temporary reduction of hours an employee is scheduled to work by the appointing authority within a pay period; and*
- (b) *"Layoff" means discharge of employment subject to the rights contained in this section.*

(2) *An appointing authority shall have the authority to layoff or furlough employees or reduce hours of employment for any of the following reasons:*

- (a) *Lack of funds or budgetary constraints;*
- (b) *A reduction in spending authorization;*
- (c) *Lack of work;*
- (d) *Abolishment of a position;*
- (e) *Efficiency; or*
- (f) *Other material change in duties or organization.*

(3) *The appointing authority shall determine the classifications affected, the number of employees laid-off in each classification, and each county to which a layoff applies. In the same department or office, county, and job classification, interim and probationary employees shall be laid-off before full-time or part-time employees with status. For purposes of layoff, "probationary employee" shall not include an employee with status serving a promotional probation.*

(4) *The provisions of this section shall not apply to federally funded time-limited employees.*

(5) *The secretary of the Personnel Cabinet shall approve all actions taken under subsection (2) of this section and no such layoff, furlough, or reduction of hours may begin until the approval has been granted. The appointing authority, with the approval of the secretary, shall have the authority to determine the extent, effective dates, and length of any action taken under subsection (2) of this section.*

(6) *In determining a layoff, the appointing authority shall consider all employees under the same appointing authority, within the classification affected, and within the county affected. Consideration shall be given to the following relevant factors and in this order:*

- (a) *Job performance evaluations;*
- (b) *Education, training, and experience;*
- (c) *Disciplinary record; and*

(d) Seniority.

- (7) *Any classified employee with status whose position is subject to layoff, furlough, or reduction of hours shall be provided written notice containing the reason for the action at least thirty (30) days in advance of the effective date of the action.*
- (8) (a) *Any classified employee with status who is laid off shall be eligible to apply as a reemployment applicant for the job classification from which he or she was laid-off, in the cabinet from which he or she was laid-off for a period of two (2) years. A reemployment applicant shall be hired before any applicant except another reemployment applicant with greater seniority who is on the same register.*
- (b) *A reemployment applicant shall not be removed from any register except as provided in Section 3 of this Act.*
- (c) *When a reemployment applicant is removed from a register, he or she shall be notified in writing or electronically and shall have the right to appeal to the board within thirty (30) calendar days after receipt of the notification, excluding the day he or she receives notice.*
- (d) *A reemployment applicant who accepts any classified position, or who retires through the Kentucky Employees Retirement System or Kentucky Teachers Retirement System, shall cease to have eligibility rights as a reemployment applicant.*
- (9) *With the approval of the secretary, the Personnel Cabinet may place employees subject to a reduction in workforce in a different position.*
- (10) *The secretary shall promulgate administrative regulations pursuant to KRS Chapter 13A to fully implement the provisions of this section.*
- (11) *A layoff, furlough, or reduction of hours implemented in accordance with this section shall not be appealable to the Personnel Board.*

➔Section 8. KRS 48.130 is amended to read as follows:

- (1) The General Assembly shall include in each enacted branch budget bill a budget reduction plan for a revenue shortfall in the general fund or road fund of five percent (5%) or less. The budget reduction plan shall direct how budget reductions shall be implemented if there is a revenue shortfall of five percent (5%) or less.
- (2) A ~~layoff~~ ~~lay-off~~ of state employees in the executive branch under the budget reduction plan enacted by the General Assembly shall comply with the provisions of **Section 7 of this Act** ~~[KRS 18A.1132]~~.
- (3) Any revenue shortfall in the general fund or road fund of greater than five percent (5%) shall require action by the General Assembly.
- (4) Upon the issuance of an official revenue estimate by the consensus forecasting group reflecting a revenue shortfall in the general fund or road fund, or upon the existence of an actual revenue shortfall in the general fund or road fund at the close of a fiscal year as determined by the Office of State Budget Director, the Office of State Budget Director shall notify all branches of government. If the revenue shortfall is five percent (5%) or less, the following actions shall be taken:
- (a) The unappropriated balance of funds in the surplus accounts of the general fund or road fund shall first be used to meet the shortfalls in those respective funds; and
- (b) If the amounts described in paragraph (a) of this subsection are insufficient to address the revenue shortfall, the enacted budget reduction plan included in each branch budget bill shall be implemented.
- (5) The budget reduction plan for each branch of government may provide that the annual increment granted state employees under KRS 18A.355 shall be reduced as provided by KRS 18A.355. Any reduction of the annual increment shall be uniform for all employees.
- (6) No budget reduction action shall be taken by any branch head in excess of the actual or projected deficit.
- (7) If general fund or road fund tax receipts increase over the revenues estimated in the official revenue estimate that resulted in reductions, then services may be restored in the reverse order of the reduced services.

➔Section 9. KRS 18A.025 is amended to read as follows:

- (1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. The secretary shall be a graduate of an accredited college or university and have at least five (5) years' experience in personnel administration or in related fields, have known sympathies with

the merit principle in government, and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.

- (2) The secretary of the Personnel Cabinet or the secretary's designee~~[,]~~ shall be responsible for the coordination of the state's affirmative action plan~~[,]~~ established by KRS 18A.138.
- (3) There is established within the Personnel Cabinet the following offices, departments, and divisions, each of which shall be headed by either a commissioner, executive director, or division director appointed by the secretary, subject to the prior approval of the Governor pursuant to KRS 12.040 or 12.050, depending on the level of the appointment, except that the Kentucky Employees Deferred Compensation Authority shall be headed by an executive director who shall be appointed by the authority's board of directors:
 - (a) Office of the Secretary, which shall be responsible for communication with state employees about personnel and other relevant issues and for the administration and coordination of the following:
 1. Office of Employee Relations, composed of the following programs:
 - a. Workers' Compensation Program pursuant to KRS 18A.375;
 - b. Sick leave Sharing Program, pursuant to KRS 18A.197;
 - c. Annual Leave Sharing Program, pursuant to KRS 18A.203;
 - d. Health and Safety Program;
 - e. Employee Assistance Program;
 - f. Employee Incentive Programs, pursuant to KRS 18A.202;
 - g. Employee Mediation Program; and
 - h. Living Organ Donor Leave Program, pursuant to KRS 18A.194;
 2. Office of Administrative Services, which shall be responsible for the Personnel Cabinet's administrative functions, composed of the following programs:
 - a. Division of Technology Services;
 - b. Division of Human Resources; and
 - c. Division of Financial Services;
 3. Office of Legal Services, which shall provide legal services to the Personnel Cabinet and to executive branch agencies and their representatives upon request;
 4. Office of Diversity, Equality, and Training, which shall coordinate and implement diversity initiatives for state agencies, the affirmative action plan established by KRS 18A.138, the state Equal Employment Opportunity Program, and the Minority Management Trainee Program;
 5. Governmental Services Center, which shall be responsible for employee and managerial training and organizational development;
 6. Kentucky Public Employees Deferred Compensation Authority, which shall maintain a deferred compensation plan for state employees; and
 7. Office of Public Affairs, which shall assist in all aspects of developing and executing the strategic direction of the cabinet;
 - (b) Department of Human Resources Administration, which shall be composed of the:
 1. Division of Employee Management, which shall be responsible for payroll, records, classification, and compensation. The division shall also be responsible for implementing *layoff*~~[lay-off]~~ plans mandated by *Section 7 of this Act*~~[KRS 18A.113 to 18A.1132]~~ and shall monitor and assist state agencies in complying with the provisions of the federal Fair Labor Standards Act. The division shall:
 - a. Maintain the central personnel files mandated by KRS 18A.020 and process personnel documents and position actions;

- b. Operate and maintain a uniform payroll system and certify payrolls as required by KRS 18A.125;
 - c. Maintain plans of classification and compensation for state service and review and evaluate the plans; and
 - d. Coordinate and implement the employee performance evaluation systems throughout state government; and
2. Division of Career Opportunities, which shall be responsible for employment counseling, applicant processing, employment register, and staffing analysis functions. The division shall:
- a. Operate a centralized applicant and employee counseling program;
 - b. Operate, coordinate, and construct the examination program for state employment;
 - c. Prepare registers of candidate employment; and
 - d. Coordinate outreach programs, such as recruitment and the Administrative Intern Program; and
- (c) Department of Employee Insurance, which shall be responsible for the:
- 1. Health Insurance Program, pursuant to KRS 18A.225;
 - 2. Flexible Benefit Plan, pursuant to KRS 18A.227;
 - 3. Division of Insurance Administration, which shall be responsible for enrollment and service functions;
 - 4. Division of Financial and Data Services, which shall be responsible for fiscal and data analysis functions; and
 - 5. Life Insurance Program pursuant to KRS 18A.205 to 18A.220.
- (4) The cabinet shall include principal assistants appointed by the secretary, pursuant to KRS 12.050 or 18A.115(1)(g) and (h), as necessary for the development and implementation of policy. The secretary may employ, pursuant to the provisions of this chapter, personnel necessary to execute the functions and duties of the department.

➔Section 10. KRS 18A.0751 is amended to read as follows:

- (1) The board shall promulgate comprehensive administrative regulations for the classified service governing:
- (a) Appeals by state employees;
 - (b) Demotion;
 - (c) Dismissal;
 - (d) Fines, suspensions, and other disciplinary measures;
 - (e) Probation, provided that the board may not require an initial probationary period in excess of six (6) months except as provided in subsection (4)(e) of this section and KRS 18A.005;
 - (f) Promotion;
 - (g) Reinstatement;
 - (h) Transfer; and
 - (i) Employee grievances and complaints.
- (2) (a) These administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;
- (b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and
- (c) No administrative body, other than the personnel board, shall promulgate administrative regulations governing the subject matters specified in this section.

- (3) Prior to filing an administrative regulation with the Legislative Research Commission, the board shall submit the administrative regulation to the secretary for review:
- (a) The secretary shall review the administrative regulation proposed by the board not more than twenty (20) days after its submission to him *or her*;
 - (b) Not more than five (5) days after his review, the secretary shall submit his *or her* recommendations in writing to the board;
 - (c) The board shall review the recommendations of the secretary and may revise the proposed administrative regulation as it deems necessary; and
 - (d) After the board has completed the review provided for in this section, it may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.
- (4) These administrative regulations shall provide:
- (a) For the procedures to be utilized by the board in the conduct of hearings by the board, consistent with the provisions of KRS Chapter 13B;
 - (b) For reduction in rank or grade as provided by this chapter;
 - (c) For discharge, as provided by this section;
 - (d) For imposition, as disciplinary measures, of a fine of not more than ten (10) working days' pay, or for suspension from the service without pay for no longer than thirty (30) working days and, in accordance with the provisions of KRS 18A.095, for the manner of notification of the employee of the discipline and his *or her* right of appeal;
 - (e) No probationary period may exceed twelve (12) months, except as provided in KRS 18A.005. The secretary may recommend an initial probationary period in excess of six (6) months for specific job classifications to the board. This recommendation shall take the form of a proposed administrative regulation that shall be submitted to the board for approval. The subject of the administrative regulation shall be limited to job classifications for which an initial probationary period in excess of six (6) months is required and shall specify:
 - 1. The job classification for which an initial probationary period in excess of six (6) months is required; and
 - 2. The specific number of months constituting the initial probationary period for the job classification. No other administrative regulation shall include any provision prescribing an initial probationary period in excess of six (6) months, except as provided in KRS 18A.005. Upon approval by the board of the proposed administrative regulation provided for in this paragraph, the board shall file the regulation with the Legislative Research Commission as provided by KRS Chapter 13A;
 - (f) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct, and seniority. Except as provided by this chapter, vacancies shall be filled by promotion whenever practicable and in the best interest of the service;
 - (g) For reemployment of laid-off employees in accordance with the provisions of this chapter;
 - (h) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges as provided by the provisions of **Section 7 of this Act** ~~KRS 18A.1131(3)(a)~~;
 - (i) For establishment of a plan for resolving employee grievances and complaints. This plan shall not restrict rights granted employees by the provisions of this chapter;
 - (j) For promotion of career employees to positions in the unclassified service without loss of status to the individual employees so promoted, as provided by this chapter; and
 - (k) For any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A as may be proper and necessary for its enforcement.

➔Section 11. KRS 18A.100 is amended to read as follows:

- (1) Any final order of the board either upholding or invalidating the dismissal, demotion, *or* suspension~~[, or other penalization]~~ of a classified or an unclassified employee may be appealed either by the employee or by the appointing authority.
- (2) The party aggrieved may appeal a final order by filing a petition with the clerk of the Franklin Circuit Court in accordance with KRS Chapter 13B.

➔Section 12. KRS 18A.355 is amended to read as follows:

- (1) An annual increment of not less than five percent (5%) of the base salary or wages of each state employee shall be granted to each employee on his *or her* anniversary date. The employee's base salary or wages shall be increased by the amount of the annual increment. When any increment due to a promotion, reallocation, reclassification or salary adjustment is granted an employee, the employee's base salary or wages shall be increased by the amount of such increment. An employee's base salary or wages shall not be increased by the amount of lump-sum payment awarded under *subsection (7)(i) of Section 6 of this Act*~~[KRS 18A.110(7)(i)]~~.
- (2) The branch budget recommendation submitted to the General Assembly under KRS Chapter 48 shall include a request for the amount of the annual increment expressed as a percentage of each employee's base salary or wages and a request for the total appropriation needed to fund the annual increment. The annual increment shall be uniform for all employees. The financial plan enacted under the provisions of KRS 48.300 shall contain the annual increment expressed as a percentage of each employee's base salary or wages, and the total appropriation needed to fund the annual increment.
- (3) The budget reduction plan submitted and enacted under the provisions of KRS Chapter 48 shall provide that a reduction of the annual increment granted under this section shall be made only after other cost savings measures, as provided by *Section 7 of this Act*~~[KRS 18A.1132]~~, are taken. Any such reduction shall be uniform for all state employees and shall comply with the provisions of this chapter and KRS Chapter 48.

➔Section 13. KRS 61.371 is amended to read as follows:

As used in KRS 61.371 to ~~61.377~~~~[61.379]~~, unless the context otherwise requires:

- (1) "Public employee" means a person appointed to a position in public service for which he *or she* is compensated on a full-time basis, excluding elected officers;
- (2) "Public service" means employment by the Commonwealth of Kentucky, or by any county, city, or political subdivision or by any department, board, agency, or commission thereof;
- (3) "Employer" means the officer, employee, board, commission or agency authorized by law to make appointments to a position in public service;
- (4) "Position" means an office or employment in the public service, excluding an office filled by popular election;
- (5) "Military duty" means training and service performed by an inductee, enlistee, or reservist or any entrant into a temporary component of the armed forces of the United States, and time spent in reporting for and returning from such training and service, or if a rejection occurs, from the place of reporting therefor. "Military duty" shall not include voluntary active duty for training of an individual as a reservist in the Armed Forces of the United States;
- (6) "Board" means the personnel board established by KRS Chapter 18A;
- (7) "Seniority" means the increase in compensation, status, and responsibility resulting from promotion or step progression within a class of a classified service or promotion or increase in compensation, status, and responsibility in the unclassified service.

➔Section 14. KRS 61.373 is amended to read as follows:

- (1) Any public employee who leaves a position after June 16, 1966, voluntarily or involuntarily, in order to perform military duty, and who is relieved or discharged from such duty under conditions other than dishonorable, and who has not been absent from public employment due to military duty in time of war or national or state emergency for a period of time longer than the duration of the war or national or state emergency plus six (6) months or in time of peace for a period of time not longer than six (6) years, and makes application for reemployment within ninety (90) days after he *or she* is relieved from military duty or from hospitalization or treatment continuing after discharge for a period of not more than one (1) year:

- (a) If still physically qualified to perform the duties of his *or her* position, shall be restored to such position if it exists and is not held by a person with greater seniority, otherwise to a position of like seniority, status, and pay;
 - (b) If not qualified to perform the duties of his *or her* position by reason of disability sustained during such service, the public employee shall be placed in another position, the duties of which he *or she* is qualified to perform and which will provide him *or her* like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances of his *or her* case.
- (2) (a) Officers and employees of this state, or any department or agency thereof, shall be granted a leave of absence by their employers for the period required to perform active duty or training in the National Guard or any reserve component of the Armed Forces of the United States.
- (b) Upon the officer's or employee's release from a period of active duty or training, except as provided in KRS 61.394, he or she shall be permitted to return to his or her former position of employment or a position with equivalent seniority, status, pay, and any other rights or benefits that would have been bestowed if he or she had not been absent.
- (c) An officer or employee who is not permitted to return to his or her former position may appeal the dismissal in accordance with KRS Chapter 18A.
- (3) In the case of any person who is entitled to be restored to a position in accordance with KRS 61.371 to ~~61.377~~~~[61.379]~~, if the personnel board finds that the department or agency with which such person was employed immediately prior to his *or her* military duty:
- (a) Is no longer in existence and its functions have not been transferred to any other agency; or
 - (b) For any reason it is not feasible for such person to be restored to employment by the department or agency, the board shall determine whether or not there is a position in any other department or agency of the same public employer for which the person is qualified and which is either vacant or held by a person having a temporary appointment thereto. In any case in which the board determines that there is such a position, the person shall be restored to the position by the department or agency in which the position exists.

➔Section 15. KRS 61.375 is amended to read as follows:

Any person who is restored to a position in accordance with KRS 61.371 to ~~61.377~~~~[61.379]~~ shall not be discharged from his *or her* position without cause within one (1) year after his *or her* restoration, and shall, without limiting other rights conferred by this or other sections, be considered as having been on furlough or leave of absence during his *or her* period of military duty. He *or she* shall be restored without loss of seniority, including, upon promotion or other advancement following completion of any period of employment required therefor, a seniority date in the advance position which will place him *or her* ahead of all persons previously junior to him *or her* who advanced to the position during his *or her* absence in the Armed Forces.

➔Section 16. The following KRS sections are repealed:

61.379 Rules and regulations -- Appeals from failure to restore or discharge -- Procedure.

18A.1131 Lay-off rules applicable to classified employees only.

18A.1132 Lay-off rules applicable to both classified and unclassified employees.

Signed by Governor March 20, 2023.

CHAPTER 36

(HB 238)

AN ACT relating to anatomical gift discrimination.

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

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

- (1) *As used in this section:*
- (a) *"Disability" has the same meaning as in KRS 12.450; and*
- (b) *"Health care provider" has the same meaning as in KRS 304.17A-005.*
- (2) *A health care provider in this state shall not discriminate against an individual who has a disability based solely on the individual's disability when providing health care and other services related to an anatomical gift donation as the individual's insurance coverage allows. Discriminating against an individual's disability includes but is not limited to:*
- (a) *Refusing to transplant an anatomical gift in the individual based solely on the individual's disability;*
- (b) *Subject to subsection (3) of this section, refusing to transplant an anatomical gift in the individual based on an assessment that the individual will be unable, without personal care support, to comply with posttransplantation medical requirements because of the disability; or*
- (c) *Refusing to place the individual's priority on an anatomical gift transplant waiting list to receive an anatomical gift.*
- (3) *A health care provider shall:*
- (a) *Consider the personal care support of an individual described under subsection (2) of this section in determining the individual's ability to comply with posttransplantation medical requirements; and*
- (b) *Use professional medical judgment as determined by evidence-based medical standards of care for transplantation of an anatomical gift donation.*
- (4) *An individual with a disability who reasonably believes that a health care provider has violated this section may bring an action for injunctive relief in any court of competent jurisdiction. The action for injunction shall be heard in an expedited manner.*
- (5) *This section shall not be construed to limit an individual's rights or remedies otherwise provided by law.*

Signed by Governor March 20, 2023.

CHAPTER 37

(HB 160)

AN ACT relating to water pollution control.

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

➔Section 1. KRS 224.16-080 is amended to read as follows:

- (1) In accordance with the water quality standards established in 401 KAR 10:029 in effect on March 24, 2021, which ~~were~~~~have been~~ submitted to and deemed approved by the United States Environmental Protection Agency pursuant to its 2018 triennial review of Kentucky's water quality standards under 33 U.S.C. sec. 1313(c), any mixing zone for ~~a~~ bioaccumulative ~~chemical~~~~chemicals~~ of concern assigned by the cabinet on or before September 8, 2004, shall be in effect from that date unless and until explicitly **changed or** extinguished by the cabinet after March 24, 2021. **Any Kentucky Pollutant Discharge Elimination System permittee who seeks to rely on a mixing zone for a bioaccumulative chemical of concern assigned by the cabinet on or before September 8, 2004, shall include information identifying the mixing zone in any application for the modification or renewal of the relevant Kentucky Pollutant Discharge Elimination System permit.**
- (2) Any change or extinguishment in mixing zone assignments for bioaccumulative chemicals of concern by the cabinet **pursuant to subsection (1) of this section** shall only be accomplished through **a formal Kentucky Pollutant Discharge Elimination System permitting action by the cabinet, including public notice and opportunity for comment, conducted pursuant to**~~the promulgation of~~ administrative regulations **promulgated in accordance with**~~pursuant to~~ KRS Chapter 13A.

➔Section 2. KRS 224.16-090 is amended to read as follows:

- (1) As used in this section, "rapid and complete mixing" means the limited area surrounding or downstream from a wastewater discharge location where complete mixing of treated wastewater and receiving water occurs rapidly~~[-, including]~~ through the use of a submerged high-rate multi-port~~[- diffuser or]~~ outfall structure.
- (2) ***If a permit applicant specifically requests in an application for the issuance, modification, or renewal of a Kentucky Pollutant Discharge Elimination System permit that the cabinet take into account rapid and complete mixing occurring at one (1) or more of its wastewater outfalls, the cabinet shall apply rapid and complete mixing in establishing water quality-based effluent~~[- permit]~~ limitations and conditions for any discharge regulated under ~~the~~ Kentucky Pollutant Discharge Elimination System permit ~~if~~ where the discharge occurs through a submerged high-rate multi-port~~[- diffuser or]~~ outfall structure.***

Signed by Governor March 21, 2023.

CHAPTER 38

(HB 222)

AN ACT relating to the hazardous waste management fund.

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

➔Section 1. KRS 224.46-580 is amended to read as follows:

- (1) The General Assembly declares that it is the purpose of this section to promote the development of statewide programs, under the responsibility of a single agency, which are intended to protect the health of the citizens and the environment of the Commonwealth from present and future threats associated with the management of hazardous wastes and the release of toxic chemicals regulated under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986, including disposal, treatment, recycling, storage, and transportation. The intent of the General Assembly is to add to and coordinate, and not replace, existing efforts and responsibilities in the areas of hazardous waste management, toxic chemical manufacture, processing, or other use, and to leave the primary burden and responsibility for hazardous waste and toxic chemical reduction on private industry; and further to finance assistance and coordination by imposing assessments on the generation of hazardous waste. The assessments are intended to produce a reduction in waste generated; to promote the use of new techniques in recycling, treatment, and alternatives other than land disposal; and to place the burden of financing additional hazardous waste management activities necessarily undertaken by state agencies on the users of those products associated with the generation of hazardous waste. The General Assembly further finds that Kentucky's industries need assistance in developing and implementing pollution prevention goals and that a fund should be established to provide technical and financial assistance to those industries.
- (2) The Energy and Environment Cabinet is given the authority to administer the provisions and programs of this section and the responsibility to achieve the purposes of this section.
- (3) In addition to all specific responsibilities contained elsewhere in this chapter, the cabinet shall:
 - (a) Respond effectively and in a timely manner to emergencies created by the release of hazardous substances, as defined in KRS 224.1-400, into the environment. The cabinet shall provide for adequate containment and removal of the hazardous substances in order that the threat of a release or actual release of the substance may be abated and resultant harm to the environment minimized. The provisions of KRS 45A.695 to 45A.725 may be suspended by the cabinet if necessary to respond to an environmental emergency;~~[-]~~
 - (b) Provide for post-closure monitoring and maintenance of hazardous waste disposal sites upon termination of post-closure monitoring and maintenance responsibilities by persons permitted to operate the facility pursuant to this chapter; ~~and~~~~[-]~~
 - (c) Identify, investigate, classify, contain, or clean up any release, threatened release, or disposal of a hazardous substance where responsible parties are economically or otherwise unavailable to properly address the problem and the problem represents an imminent danger to the health of the citizens and the environment of the Commonwealth.

- (4) The cabinet shall have the authority to finance the nonfederal share of the cost for clean up of sites under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Pub. L. 96-510).
- (5) The cabinet shall recover, when possible, actual and necessary expenditures incurred in carrying out the duties under this section. Any expenditures recovered shall be placed in the hazardous waste management fund.
- (6) It is the expressed purpose of this section to accomplish effective hazardous waste and toxic chemical management that results in a reduction of the generation of hazardous wastes and the release of toxic chemicals within the Commonwealth; further, it is a purpose of this chapter to allocate a portion of the cost of administering necessary governmental programs related to hazardous waste and toxic chemical management to those industries whose products are reasonably related to the generation of hazardous waste.
- (7) There is hereby imposed upon every person engaged within this state in the generation of hazardous waste an annual hazardous waste assessment to be determined pursuant to this section according to the quantity by weight of hazardous waste generated, except that no assessment shall be levied against generators for any quantity of "special wastes," waste oil, or spent material from air pollution control devices controlling emissions from coke manufacturing facilities. The assessment shall not be imposed upon any person for any quantities of hazardous waste generated by others for which that person is a secondary handler that stores, processes, or reclaims the waste. The assessment shall be reported and paid to the Energy and Environment Cabinet for the generation of hazardous waste on an annual basis on January 1 of each year. The payment shall be accompanied by a report or return in a form that the cabinet may prescribe. If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this section and which levies an assessment or tax upon any business assessed pursuant to this section, the amount of the assessment to be levied upon the business under this section shall be reduced by the amount of the federal assessment or tax upon the business. The reduction shall only be authorized when funds raised by the federal assessment or tax are made available to the state for any of the activities to be funded under this section. If federal moneys are available to carry out the duties imposed by subsection (3) of this section, the assessment shall cease to be levied and collected until such time as federal moneys are no longer available to the Commonwealth for these purposes. The assessment shall be charged against generators of hazardous waste until June 30, ~~2032~~²⁰²⁴. After this date, no further hazardous waste management assessment shall be charged against generators. The hazardous waste assessment shall be waived for any generator owing less than fifty dollars (\$50) for the year. However, a return must be filed by generators to whom a payment waiver applies.
- (8) The assessment on generators shall be one and two-tenths cents (\$0.012) per pound if the waste is liquid, or two-tenths of a cent (\$0.002) per pound if the waste is solid.
 - (a) Hazardous waste that is injected into a permitted underground injection well shall be assessed on a dry weight basis;
 - (b) Hazardous waste treated, detoxified, solidified, neutralized, recycled, incinerated, or disposed of on-site shall be assessed at one-half (1/2) of the appropriate rate, except for recycled waste used in the steel manufacturing process which shall be exempt;
 - (c) Waste that is subject to regulation under Section 402 or 307B of the Federal Clean Water Act shall be exempt;
 - (d) Emission control dust and sludge from the primary production of steel that is recycled by high temperature metals recovery or managed by stabilization of metals shall be exempt; and
 - (e) Waste that is delivered from the generator to an on-site or off-site industrial boiler or furnace and burned for energy recovery in accordance with state and federal laws and regulations shall be assessed at one-half (1/2) of the appropriate rate.
- (9) Except for waste brought into the state by a company to an affiliated manufacturing facility of the company receiving the waste, any person who transports hazardous waste into the state for land disposal or treatment which is generated outside of the state shall pay an assessment to the hazardous waste facility which first receives the waste for storage, treatment, or land disposal. The assessment rate shall be identical to the rate described in subsection (8) of this section. The facility shall remit the assessment to the cabinet on an annual basis on January 1 of each year. The payment shall be accompanied by a return the cabinet shall prescribe.
- (10) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails or refuses to file a return or furnish any information requested in writing by the cabinet, the cabinet may, from any information in its possession, make an estimate and issue an assessment against the generator or

hazardous waste facility and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties in this chapter.

- (11) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the cabinet, unless it is shown to the satisfaction of the cabinet~~[]~~ that the failure is due to reasonable cause, five percent (5%) of the assessment found to be due by the cabinet shall be added to the assessment for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it is filed, but the total penalty shall not exceed twenty-five percent (25%) of the assessment.
- (12) If the assessment imposed by this chapter, whether assessed by the cabinet~~[]~~ or the generator, or any installment or portion of the assessment is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the assessment, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the cabinet.
- (13)
 - (a) There is hereby created within the State Treasury a trust and agency fund, which shall not lapse, to be known as the hazardous waste management fund. The fund shall be deposited in an interest-bearing account. The cabinet shall be responsible for collecting and receiving funds as provided in this section~~[]~~ and all such assessments collected or received by the State Treasury shall be deposited in the hazardous waste management fund. All interest earned on the money deposited in the fund shall be deposited to the fund. When the State Treasurer certifies to the cabinet that the uncommitted balance of the hazardous waste management fund exceeds six million dollars (\$6,000,000), assessments shall not be collected until the State Treasurer certifies to the cabinet that the balance in the hazardous waste management fund is less than three million dollars (\$3,000,000). The implementation of the cap on the fund shall be suspended from July 13, 1990, until July 1, 1991. In addition, for assessments paid after July 1, 1991, the cabinet shall refund or grant a credit against the next assessment to come due, on a pro-rated basis, any money collected in one (1) year in excess of the cap.
 - (b) In any fiscal year in which the fees assessed under this section total less than one million eight hundred thousand dollars (\$1,800,000) in fiscal year 2007-2008 dollars, adjusted annually to reflect any increase in the cost-of-living index, the difference between the fee receipts and the adjusted minimum balance shall be transferred from funds collected pursuant to KRS 224.60-130.
 - (c) The cabinet shall file with the Legislative Research Commission a biennial report, beginning two (2) years after July 15, 2008, on the revenues and expenditures of the fund.
- (14) There is hereby created within the State Treasury a trust and agency account, which shall not lapse, to be known as the pollution prevention fund. The fund shall be placed in an interest-bearing account. The fund shall be administered by the Center for Pollution Prevention. The cabinet shall remit to the fund each fiscal year twenty percent (20%) of the funds received by the hazardous waste management fund subject to the enacted budget bill.
- (15) Upon request of the secretary, moneys accumulated in the hazardous waste management fund shall be released in amounts necessary to accomplish the performance of the duties imposed by subsection (3) of this section. However, moneys from the fund shall not be used when federal moneys are available to carry out these duties, except when immediate action is required to protect public health or the environment, in which case the cabinet shall actively pursue reimbursement of the fund by any available federal moneys.
- (16) If any person responsible for a release or threatened release of a hazardous substance fails to take response actions or to make reasonable progress in completing response actions ordered by the cabinet, the cabinet may bring an action to compel performance or may take appropriate response actions and order the responsible person to reimburse the cabinet for the actual costs incurred by the cabinet.
- (17) If disposal activities have occurred at a hazardous waste site, the cabinet shall record, in the office of the county clerk in the county in which a waste site is situated, a notice containing a legal description of the property that discloses to any potential transferee that the land was used to dispose hazardous waste and that further information on the hazardous waste site may be obtained from the cabinet.
- (18) No person shall affect the integrity of the final cover, liners, or any other components of any containment system after closure of a hazardous waste site on or in which hazardous waste remains without prior written approval of the cabinet.

Signed by Governor March 21, 2023.

CHAPTER 39

(HB 237)

AN ACT relating to alcoholic beverages.

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

➔Section 1. KRS 243.020 is amended to read as follows:

- (1) A person shall not do any act authorized by any kind of license with respect to the manufacture, storage, sale, purchase, transporting, or other traffic in alcoholic beverages unless the person holds or is an independent contractor, agent, servant, or employee of a person who holds the kind of license that authorizes the act, or is a third party utilized by a direct shipper licensee as set forth in KRS 243.027.
- (2) The holding of any permit from the United States government to traffic in alcoholic beverages without the corresponding requisite state and local licenses shall in all cases raise a rebuttable presumption that the holder of the United States permit is unlawfully trafficking in alcoholic beverages.
- (3) Except as permitted by KRS 243.033, 243.036, 243.155, 243.157, and 243.260, a person, conducting a place of business patronized by the public, who is not a licensee authorized to sell alcoholic beverages, shall not permit any person to sell, barter, loan, give away, or drink alcoholic beverages on the premises of the place of business.
- (4) A licensee shall not permit any consumer to possess, give away, or drink alcoholic beverages on the licensed premises that are not purchased from the licensee.
- (5) In a moist territory, the only types of licenses that may be issued are those that directly correspond with the types of sales approved by the voters through moist elections within the territory, unless otherwise specifically authorized by statute.
- (6) *Notwithstanding subsections (3) and (4) of this section, with the written permission of a licensed entertainment destination center:*
 - (a) *A retail drink licensee located wholly within a licensed entertainment destination center or that has a storefront sharing a physical boundary with that licensed entertainment destination center may allow persons on the licensee's premises to possess and drink alcoholic beverages that were purchased from another retail drink licensee located wholly within, or that has a storefront sharing a physical boundary with, the licensed entertainment destination center; and*
 - (b) *A nonlicensed place of business that is located wholly within a licensed entertainment destination center or that has a storefront sharing a physical boundary with that licensed entertainment destination center may allow persons on its property to possess and drink alcoholic beverages that were purchased from a retail drink licensee located wholly within, or that has a storefront sharing a physical boundary with, the licensed entertainment destination center.*

Signed by Governor March 21, 2023.

CHAPTER 40

(SB 70)

AN ACT relating to a pilot program for performance-based professional development.

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

➔Section 1. KRS 156.560 is amended to read as follows:

- (1) (a) Beginning in the ~~2018-2019~~ **2023-2024** school year, and continuing until the end of the ~~2020-2021~~ **2025-2026** school year, a school district may establish a pilot program for teachers to develop

and implement a performance-based professional development project, which is designed to produce measurable outcomes of positive impact on student performance.

- (b) The pilot program shall require two (2) or more teachers to design an instructional practice or strategy project to address an identified school or district academic or nonacademic classroom problem.
 - (c) Successful completion of a project under this section shall satisfy up to three (3) days of the requirement to complete four (4) days of professional development under KRS 158.070(3)(a).
 - (d) A local board of education may award a teacher a stipend for successful completion of a project.
- (2) The local board of education shall determine the parameters for the performance-based professional development pilot program, including but not limited to:
- (a) A project application process;
 - (b) Review and approval of project proposals;
 - (c) Submission of completed project analysis and results;
 - (d) Evaluation of completed projects;
 - (e) The awarding of professional development credit, including the amount of the credit and when it will be credited; and
 - (f) The awarding of a stipend, if applicable.
- (3) (a) The Kentucky Department of Education shall study the completed pilot projects for their impact on schools and districts to determine the attributes of quality performance-based professional development and the best practices for measuring its effectiveness.
- (b) By August 1, ~~2027~~²⁰²², the department shall report its findings and any recommendations for revising professional development policy to the Interim Joint Committee on Education.

Signed by Governor March 21, 2023.

CHAPTER 41

(SB 169)

AN ACT relating to public-private partnerships.

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

➔Section 1. KRS 65.028 is amended to read as follows:

- (1) As used in this section:
- (a) "Best value" has the same meaning as in KRS 65.025;
 - (b) "Cabinet" means the Finance and Administration Cabinet;
 - (c) "Local government" means a city, county, charter county, urban-county government, consolidated local government,~~or~~ unified local government, **or local school district** of the Commonwealth;
 - (d) "Private partner" has the same meaning as in KRS 65.025; and
 - (e) "Public-private partnership" has the same meaning as in KRS 65.025.
- (2) A public-private partnership delivery method may be utilized by a local government as provided in this section and administrative regulations promulgated thereunder. Contracts using this method shall be awarded by competitive negotiation on the basis of best value, and shall in all cases take effect only if executed by the legislative body of the local government, **which in the case of a school district shall be the local board of education**. The provisions of KRS 65.025(2) to (4) shall not apply to public-private partnerships utilized by local governments.

- (3) A local government utilizing a public-private partnership shall continue to be responsible for oversight of any function that is delegated to or otherwise performed by a private partner.
- (4) A public-private partnership shall not be used to circumvent any requirements or restrictions placed upon any local government pursuant to any provision of the Kentucky Revised Statutes.
- (5) All public-private partnership agreements executed by a local government or any of its agencies under this section shall be approved by the legislative body of the local government, ***which in the case of a school district shall be the local board of education***, at a public meeting, and shall include at a minimum the following provisions:
- (a) 1. Property owned by a local government shall not be sold, conveyed, or disposed of in any way at any time; and
 2. Leases issued by a local government to any party shall not be transferred in any way by that party;
without the specific and express written consent of the legislative body, ***which in the case of a school district shall be the local board of education***, of the local government;
 - (b) Require the private partner to provide or cause to be provided performance and payment bonds on the design and construction portion of the agreement as required under KRS 45A.435 and maintenance bonds, warranties, guarantees, and letters of credit in connection with the private partner's other activities under the agreement, in the forms and amounts satisfactory to the local government and in amounts necessary to provide adequate protection to the local government;
 - (c) Review and approval of plans and specifications for the project by the local government;
 - (d) Inspection of the project by the local government to ensure that the private partner's actions are acceptable to the local government in accordance with the agreement;
 - (e) Maintenance of public liability insurance or self-insurance, in form and amount satisfactory to the local government and reasonably sufficient to insure coverage of tort liability to the public and employees and to enable the continued operation of the project;
 - (f) Reimbursement to be paid to the local government for services provided by the local government;
 - (g) Filing of appropriate financial statements by the private partner on a periodic basis;
 - (h) Policies and procedures governing the rights and responsibilities of the local government and the private partner in the event the public-private partnership agreement is terminated or there is a material default by the private partner. These policies and procedures shall include conditions governing assumption of the duties and responsibilities of the private partner by the local government, and the transfer or purchase of property or other interests of the private partner by the local government;
 - (i) Any fees or payments as may be established by agreement of the private partner and the local government;
 - (j) A detailed description of all duties and requirements of the private partner;
 - (k) The ability of a private partner or partners to quickly respond to the needs presented in the request for proposal, and the importance of economic development opportunities represented by the qualifying project. In evaluating proposals, preference shall be given to a plan that includes the involvement of small businesses as subcontractors, to the extent that small businesses can provide services in a competitive manner, unless any preference interferes with the qualification for federal or other funds; and
 - (l) Any other information necessary to properly address the life cycle of the agreement, including the disposition of assets if or when the public-private partnership agreement is terminated or otherwise concludes.
- (6) (a) On or before December 31, 2016, the secretary of the Finance and Administration Cabinet shall promulgate administrative regulations setting forth criteria to be used by a local government employing a public-private partnership for a particular project, and establishing a process for public-private partnership procurement undertaken by local governments consistent with this section. Prior to submission of the proposed administrative regulations pursuant to the regulatory process required by

KRS Chapter 13A, the proposed administrative regulations shall be approved by the Kentucky Local Government Public-Private Partnership Board established by subsection (11) of this section.

- (b) The secretary shall consult with design-builders, construction managers, contractors, design professionals including engineers and architects, and other appropriate professionals during the development of these administrative regulations.
 - (c) The secretary shall have the authority to contract with a consultant, pursuant to KRS 45A.695, to assist the cabinet and the Kentucky Local Government Public-Private Partnership Board with the review process required in subsection (12) of this section. The secretary may, through administrative regulation, impose a reasonable fee on the private partner to defray the cost of the review required in subsection (12) of this section, including any expenses or fees incurred in contracting with a consultant.
 - (d) If the secretary fails to timely promulgate administrative regulations pursuant to this subsection, local governments may then act pursuant to this section including compliance with the process outlined in subsection (12) of this section, in the absence of administrative regulations.
- (7) A request for proposal for a local government project utilizing a public-private partnership shall include at a minimum:
- (a) The parameters of the proposed public-private partnership agreement;
 - (b) The duties and responsibilities to be performed by the private partner or partners;
 - (c) The methods of oversight to be employed by the local government;
 - (d) The duties and responsibilities that are to be performed by the local government and any other partners to the contract;
 - (e) The evaluation factors and the relative weight of each to be used in the scoring of awards; and
 - (f) Other information required by a local government to evaluate the proposals submitted by respondents and the overall proposed public-private partnership.
- (8) A private entity desiring to be a private partner shall demonstrate to the satisfaction of the local government that it is capable of performing any duty, responsibility, or function it may be authorized or directed to perform as part of the public-private partnership agreement.
- (9) When a request for proposal for a project utilizing a public-private partnership is issued, the local government shall transmit a copy of the request for proposal to the cabinet and to the Department for Local Government.
- (10) A request for proposal or other solicitation may be canceled, or all proposals may be rejected, if it is determined in writing that the action is taken in the best interest of the local government and approved by the legislative body, ***which in the case of a school district shall be the local board of education.***
- (11) (a) There is established within the cabinet the Kentucky Local Government Public-Private Partnership Board, composed of eleven (11) members as follows:
- 1. The secretary of the cabinet, or the secretary's designee;
 - 2. Two (2) individuals appointed by the Kentucky League of Cities, both of whom shall have experience in municipal financial operations;
 - 3. Two (2) individuals appointed by the Kentucky Association of Counties, both of whom shall have experience in county financial operations, one (1) to be recommended by the Kentucky County Judge/Executive Association and one (1) to be recommended by the Kentucky County Magistrates and Commissioners Association;
 - 4. The commissioner of the Department for Local Government, or the commissioner's designee;
 - 5. The executive director of the Office of Financial Management within the cabinet, or the executive director's designee;
 - 6. The Auditor of Public Accounts, or the Auditor's designee;
 - 7. One (1) citizen member appointed by the Governor, who shall have experience and knowledge in local government debt and financial operations; and
 - 8. Two (2) members of the Kentucky General Assembly, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives, each of whom

shall serve in a nonvoting ex officio capacity and shall not be considered for purposes of determining a quorum.

- (b) Members of the board shall begin their terms on August 1, 2016, and shall serve for a term of four (4) years.
 - (c) Board members appointed under paragraph (a)2. and 3. of this subsection may send a designee with similar experience to meetings for which they are unavailable.
 - (d) Vacancies occurring in the term of any member shall be filled in the same manner as the original appointment.
 - (e) The members of the board shall receive no compensation for their services.
 - (f) The secretary of the cabinet, or the secretary's designee, shall serve as chair of the board and the members shall elect a vice chair from among the membership of the board. The vice chair may preside over meetings of the board in the absence of the chair.
 - (g) The board shall meet at least once per year, and as needed for the timely consideration of proposed projects. A majority of the members of the board shall constitute a quorum.
 - (h) The secretary of the cabinet shall be responsible for providing staff support and maintaining complete records of the board's actions and proceedings, as public records open to inspection.
- (12) (a) Upon the initial issuance of a public-private partnership agreement having a total contractual value that equals or exceeds thirty percent (30%) of the general fund revenues received by the local government in the immediately preceding fiscal year, the local government shall submit the agreement to the cabinet for the sole purpose of making an evaluation to the Kentucky Local Government Public-Private Partnership Board of the following:
1. Whether the agreement meets the requirements of subsection (5) of this section;
 2. An analysis of the overall project's economic and financial viability within the scope of available or proposed financing arrangements and expected revenues; and
 3. Whether the agreement adheres to the procurement process required by subsection (2) of this section.
- Public-private partnership agreements having a total contractual value that is less than thirty percent (30%) of the general fund revenues received by the local government in the immediately preceding fiscal year shall not be required to be submitted to the cabinet or the Kentucky Local Government Public-Private Partnership Board.
- (b) The local government shall submit any information required by the cabinet, relating to the agreement and its procurement, to enable the cabinet to conduct this evaluation.
 - (c) The cabinet shall acknowledge receipt of the agreement within thirty (30) days, and after evaluation thereof shall, within ninety (90) days of its receipt, forward the results of its evaluation separately to each individual member of the Kentucky Local Government Public-Private Partnership Board. The full board shall meet within sixty (60) days of the issuance of the cabinet's evaluation to consider the evaluation provided by the cabinet and approve or disapprove the proposed agreement. If the board disapproves the project, the board shall provide specific reasons for its disapproval. If the board approves the project, the cabinet shall return the agreement to the local government legislative body, ***which in the case of a school district shall be the local board of education***, for final execution thereof. No public-private partnership agreement issued by a local government that is subject to evaluation by the cabinet and review and approval by the Kentucky Local Government Public-Private Partnership Board pursuant to paragraph (a) of this subsection shall take effect unless and until it is approved by the Kentucky Local Government Public-Private Partnership Board pursuant to this subsection and is found by the board to meet the requirements of this section and to be economically viable as provided in this subsection.
 - (d) If an agreement is not approved by the board, the local government submitting the agreement may modify the agreement and resubmit it for reconsideration in accordance with this section.
- (13) The Commonwealth shall bear no liability for public-private partnership agreements approved pursuant to subsection (12) of this section.

- (14) Upon approval and execution of a public-private partnership agreement, the local government shall transmit a copy of the agreement to the Department for Local Government.
- (15) The Auditor of Public Accounts may periodically review public-private partnership agreements executed by a local government pursuant to this section, and any actions undertaken by private partners and local governments thereunder, to evaluate compliance with the agreement and this section.
- (16) Multiple local governments, acting in accordance with KRS 65.210 to 65.300, may jointly enter into a public-private partnership pursuant to this section. Public-private partnership agreements involving multiple local governments shall only be required to be submitted to the cabinet for evaluation and to the Kentucky Local Government Public-Private Partnership Board for review and approval, as provided by subsection (12) of this section, if the total contractual value equals or exceeds thirty percent (30%) of the combined general fund revenues received in the immediately preceding fiscal year by all local governments participating in the agreement.
- (17) (a) A person or business may submit an unsolicited proposal to a local government, which may receive the unsolicited proposal.
- (b) Within ninety (90) days of receiving an unsolicited proposal, a local government may elect to consider further action on the proposal, at which point the local government shall provide public notice of the proposal pursuant to KRS Chapter 424 or electronically on the ~~website~~^[Web site] of the local government, and shall:
1. Provide specific information regarding the proposed nature, timing, and scope of the unsolicited proposal, except that trade secrets, financial records, or other records of the person or business making the proposal shall not be posted unless otherwise agreed to by the local government and the person or business; and
 2. Provide for a notice period of at least thirty (30) days and no more than ninety (90) days for the submission of competing proposals.
- (c) Upon the end of the notice period provided under paragraph (b)2. of this subsection, the local government may consider the unsolicited proposal and any competing proposals received. If the local government determines it is in the best interest of the local government to implement some or all of the concepts contained within the unsolicited proposal or competing proposals received by it, the local government may begin an open, competitive procurement process to do so pursuant to this section.
- (d) An unsolicited proposal shall be deemed rejected if no written response is received from the local government within ninety (90) days after submission, during which time the governmental body has not taken any action on the proposal under paragraph (b) of this subsection.

Signed by Governor March 21, 2023.

CHAPTER 42

(HB 188)

AN ACT relating to public contracts.

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

➔Section 1. KRS 45A.183 is amended to read as follows:

- (1) ***For the purposes of this section, "self-perform" or "self-performance" means work performed by direct employees of a construction management-at-risk entity or a construction manager-general contractor and not by direct employees of a subcontractor that does not exceed twenty percent (20%) of the total cost of the project.***
- (2) When a capital project is to be constructed using the construction management-at-risk method, a process parallel to the selection committee procedures established in KRS 45A.810 shall apply when procuring a construction management-at-risk firm and regulations promulgated in accordance with KRS 45A.180 shall apply that set forth requirements for:

- (a) Description of the bond, insurance, and other security provisions that apply to a project;
 - (b) Description of appropriate contract clauses and fiscal responsibility requirements that apply to each project; and
 - (c) Restrictions relating to conflicts of interest~~[-, including a provision that a construction management-at-risk entity shall be eligible to become an offeror of goods or services on a project it manages only when a subcontractor fails to perform and upon prior approval by the contracting body].~~
- (3) *A construction management-at-risk entity shall be eligible to become an offeror of goods or services on a project it manages when a subcontractor fails to perform and upon prior approval by the contracting body, or when a construction management-at-risk entity meets the following conditions:*
- (a) *The construction management-at-risk entity shall only be eligible to competitively bid on a part of a project that the entity or its parent, affiliate, or subsidiary performs in its ordinary course of business;*
 - (b) *The construction management-at-risk entity shall publicly declare in its advertisement for bids or addenda thereto which parts of the project it plans to competitively bid. The scope of work for those parts of the project shall be reviewed and approved by the contracting body. The advertisement for bids or addenda thereto shall be issued at least two (2) weeks prior to the bid date;*
 - (c) *The construction management-at-risk entity shall submit a sealed bid for the parts of the project it plans to competitively bid to the contracting body. Other entities who plan to submit bids on the parts of the project submitted by the construction management-at-risk entity shall also submit their bids to the contracting body;*
 - (d) *The staffing, equipment, and materials that a construction management-at-risk entity uses for the management part of the project shall be separate from the staffing, equipment, and materials required for the self-performance part of the project;*
 - (e) *The construction management-at-risk entity shall not be eligible to utilize any of the construction contingency it may be carrying on the project for any part of the project it competitively bids to self-perform unless approved to do so by the contracting body; and*
 - (f) *Electrical, mechanical, fire suppression, or plumbing work shall not be self-performed.*
- (4) *To execute its self-performance bid, a construction management-at-risk entity may use:*
- (a) *Materials or supplies from a supplier or subcontractor; or*
 - (b) *Tools or equipment leased from a subcontractor.*
- (5)~~(2)~~
- (a) When a construction project is to be constructed using the construction manager-general contractor method, a competitive process consistent with this code established by administrative regulations promulgated under KRS 45A.180 shall apply.
 - (b) The procurement process shall set forth the requirements for:
 1. Description of the bond, insurance, and other security provisions that apply to the project;
 2. Description of appropriate contract clauses and fiscal responsibility requirements that apply to the project; and
 3. Restrictions relating to conflicts of interest~~[-, including a provision that a construction manager-general contractor shall be eligible to become an offeror of goods or services on a project it manages only when a subcontractor fails to perform and upon prior approval by the contracting body].~~
 - (c) The selection of the construction manager-general contractor shall be based on:
 1. Qualifications; and
 2. Price, including preconstruction consulting services, overhead, and profit.
 - (d) Prior to the construction phase, the construction manager-general contractor shall competitively bid the subcontracts by public notice and award each subcontract to the lowest responsive and responsible bidder.

- (e) The final construction cost and completion date for the project shall be established by change order after the construction manager-general contractor enters into all applicable subcontracts.
- (6) *A construction manager-general contractor shall be eligible to become an offeror of goods or services on a project it manages when a subcontractor fails to perform and upon prior approval by the contracting body, or when the construction manager-general contractor meets the following conditions:*
- (a) *The construction manager-general contractor shall only be eligible to competitively bid on part or parts of a project that the construction manager-general contractor or its parent, affiliate, or subsidiary performs in its ordinary course of business;*
- (b) *The construction manager-general contractor shall publicly declare in its advertisement for bids or addenda thereto which parts of the project it plans to competitively bid. The scope of work for those parts of the project shall be reviewed and approved by the contracting body. The advertisement for bids or addenda thereto shall be issued at least two (2) weeks prior to the bid date;*
- (c) *The construction manager-general contractor shall submit a sealed bid for the parts of the project it seeks to self-perform no later than thirty (30) minutes prior to the date and time established for other entities to submit sealed bids for the same project parts. The construction manager-general contractor shall publicly open and read all bid amounts aloud. All bidders shall be granted access to view the bid amounts submitted. All bids for portions of the project the construction manager-general contractor submitted a bid to self-perform shall be submitted to the contracting body for recordkeeping purposes;*
- (d) *The staffing, equipment, and materials that a construction manager-general contractor uses for the management part of the project shall be separate from any staffing, equipment, and materials required for the self-performance part of the project;*
- (e) *The construction manager-general contractor shall not be eligible to utilize any of the construction contingency it may be carrying on the project for any part of the project it competitively bids to self-perform unless approved to do so by the contracting body; and*
- (f) *Electrical, mechanical, fire suppression, or plumbing work shall not be self-performed.*
- (7) *To execute its self-performance bid, a construction manager-general contractor may use:*
- (a) *Materials or supplies from a supplier or subcontractor; or*
- (b) *Tools or equipment leased from a subcontractor.*
- (8) *The provisions of this section shall not apply to any project, contract, proposal, bid, or other submission or engagement entered into by the Transportation Cabinet, including but not limited to procurement of architectural or engineering services.*

Signed by Governor March 21, 2023.

CHAPTER 43

(HJR 7)

A JOINT RESOLUTION designating honorary names for various roads and bridges.

WHEREAS, from time to time, the General Assembly has seen fit to honor various Kentuckians by naming portions of state highways and erecting commemorative roadway signs in their honor; and

WHEREAS, these Kentuckians have come from all walks of life, held a multitude of jobs, and had a variety of accomplishments that made them deserving of the honor; and

WHEREAS, these individuals have included former Governors, former members of the General Assembly, decorated veterans, slain law enforcement officers, local elected officials, astronauts, doctors, educators, distinguished athletes, and civic leaders; and

WHEREAS, every citizen of the Commonwealth owes a great debt of gratitude to the patriotic men and women killed and wounded in service to their country in times of great need; and

WHEREAS, the General Assembly has often honored the veterans of this state by naming portions of several roads, from interstates to small two-lane country roads, in their honor; and

WHEREAS, the General Assembly again sees fit to honor a group of individuals who have made the lives of their fellow Kentuckians better and brought honor and respect to the Commonwealth;

NOW, THEREFORE,

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

➔Section 1. The Transportation Cabinet shall designate the completed portion of the Campbellsville Bypass (Kentucky Route 55), from the intersection with Kentucky Route 201 to the intersection with Kentucky Route 70, as the "Representative John "Bam" Carney Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 2. Upon its eventual completion, the Transportation Cabinet shall continue the designation of the "Representative John "Bam" Carney Memorial Highway" on the portion of the Campbellsville Bypass (Kentucky Route 55), from the intersection with Kentucky Route 70 to the intersection with United States Route 68, and shall, within 30 days of the completion of construction, erect appropriate signage denoting this designation.

➔Section 3. The Transportation Cabinet shall designate Kentucky Route 1057, in Powell County, from the intersection with Frames Branch Road, and ending at the intersection with Daniel's Branch Road, as the "Rondal Winslow Davis Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 4. The Transportation Cabinet shall designate Kentucky Route 345 in Christian County, from its start at the state line with Tennessee to the intersection with Kentucky Route 107, as "The Gold Star Families Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 5. The Transportation Cabinet shall designate the bridge on Kentucky Route 114 over Levisa Fork in Floyd County (Bridges #036B0084R and #036B0084L) as the "Heroes Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation. The signs erected under this section shall read:

"Heroes Bridge

In Memory of Our Fallen Officers

Jacob Chaffins, Ralph Frasure, William Petry, and K-9 Drago".

➔Section 6. The Transportation Cabinet shall designate a portion of Kentucky Route 111 in Fleming County, from its intersection with Hot Shot Road to its intersection with Saunders Lane, as the "Private Dennie Lee Story Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 7. The Transportation Cabinet shall designate Kentucky Route 878 in Ohio County, from the beginning of Kentucky Route 878, from Kentucky Route 69 at mile point 0 to mile point 7.485 at the Ohio/Grayson County line, as the "Pvt. Millard R. Hurt Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 8. The Transportation Cabinet shall designate Kentucky Route 2275 in Johnson County, from its intersection with Kentucky Route 40 until its intersection with Marina Road, as the "Sheriff Gene Cyrus Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 9. The Transportation Cabinet shall honor the accomplishments of Marvin Rose by including him on the Country Music Highway on United States Highway 23 in Lawrence County, and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 10. The Transportation Cabinet shall designate Kentucky Route 467 in Grant County, from its intersection with Kentucky Route 22 to its intersection with Clark's Creek Road, as the "Greg "Slim" Hearn Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 11. The Transportation Cabinet shall designate the entire length of Kentucky Route 181 in Muhlenberg County as the "Muhlenberg County Veterans Memorial Highway" and shall, within 30 days of the

effective date of this Resolution, erect appropriate signage denoting the designation. This designation shall supersede any previous designation of a state highway as the Muhlenberg County Veterans Highway.

→Section 12. The Transportation Cabinet shall designate the entire length of Kentucky Route 181 in Todd County as the "Todd County Veterans Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting the designation.

→Section 13. The Transportation Cabinet shall designate Kentucky Route 1107 in Johnson County, from the intersection with Kentucky Route 321 to the intersection with Kentucky Route 302, as the "Tim Barker Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 14. The Transportation Cabinet shall designate the bridge at the junction of Kentucky Route 1165 and Kentucky Route 1166 in Perry County (Bridge Number 097B000141N) in honor of Corporal James "Jim" Caudill and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation:

"Cpl. James "Jim" Caudill Memorial Bridge
Purple Heart with Oak Leaf Cluster Recipient".

→Section 15. The Transportation Cabinet shall designate Kentucky Route 1933 in Breathitt County as the "Emanuel C. Turner Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 16. The Transportation Cabinet shall designate United States Route 25 in Madison County, from mile point 9.565 to mile point 15.442, as the "Sheriff Cecil "Dude" Cochran Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 17. The Transportation Cabinet shall designate Kentucky Route 190 in Bell County, from mile point 12 to mile point 17.628, as the "Nick Grubbs Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 18. The Transportation Cabinet shall designate Kentucky Route 160 in Harlan County, from mile point 6.357 to mile point 6.998, as the "PFC Edward Harper Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 19. The Transportation Cabinet shall designate Berea Bypass currently under construction (Six Year Plan Project ID # 192-2000) as the "Mayor C.C. Hensley Memorial Highway" and shall, within 30 days of the completion of the highway, erect appropriate signage denoting this designation.

→Section 20. The Transportation Cabinet shall designate the bridge on United States Route 62 in Nelson County at mile point 2.69 (Bridge #090B00060N) as the "PFC John W. "Hawk" Cissel, Jr. Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 21. The Transportation Cabinet shall honor the accomplishments of Corbet "Cuddles" Newsome by including him on the Country Music Highway on United States Highway 23 in Pike County and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 22. The Transportation Cabinet shall honor the accomplishments of Roger Lee Coleman II by including him on the Country Music Highway on United States Highway 23 in Pike County, near exit 15, and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 23. The Transportation Cabinet shall designate the bridge on Kentucky Route 1789 at mile point 0.35 in Pike County (Bridge #098B00053N) as the "Willie Runyon Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 24. The Transportation Cabinet shall designate Kentucky Route 2759 in Knott County as the "Danny Terry Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 25. The Transportation Cabinet shall name the bridge located on the Campbellsville Bypass, Kentucky Route 55, at mile marker 9 in Taylor County, the "Representative Herman W. Ratliff Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 26. The Transportation Cabinet is directed to change the name of the "Irene Patrick Memorial Highway" in Boone County to the "Charles and Irene Patrick Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting the new designation.

→Section 27. The Transportation Cabinet shall designate the portion of United States Route 231 in Butler County, from Kentucky Route 70 (mile point 11.513) to the Butler/Ohio County line (mile point 18.846), as the "Senator C.B. Embry Jr. Memorial Highway", and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 28. The Transportation Cabinet shall designate Kentucky Route 192 in Pulaski County, from its intersection with Blaze Valley Road to its intersection with East Mt. Vernon Street, as the "Col. Vermont Garrison Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 29. The Transportation Cabinet shall designate the bridge on Kentucky Route 199 in Pike County, at mile point 8.88 (Bridge ID# 098B00291N), as the "Chief Petty Officer 3rd Class Virgil Mounts Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 30. The Transportation Cabinet shall designate United States Route 460 in Pike County, from mile point 6 to mile point 16.9, as the "Korean War Veteran Sergeant Thomas Epling Memorial Pike County Industry and Technology Corridor" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation. This designation shall supersede any previous designations on this portion of highway.

→Section 31. The Transportation Cabinet shall designate the bridge on Kentucky Route 70 in Pulaski County (Bridge Number 100B00109N), as the "1SGT Norman Richard Wells Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 32. The Transportation Cabinet shall designate the bridge on Kentucky Route 192 in Laurel County, over Interstate 75 (Bridge Number 063B00106N), mile point 18.257, as the "Officer Logan Medlock Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 33. The Transportation Cabinet shall designate the bridge on Kentucky Route 80 in Laurel County, over Interstate 75 (Bridge Number 063B00107N), mile point 10.684, as the "Officer Travis Hurley Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 34. The Transportation Cabinet shall designate Kentucky Route 66 in Clay County, from mile point 6 at the Clay/Leslie County Line to mile point 18.516 at the intersection with United States Route 421, as the "Henry Ledford Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 35. The Transportation Cabinet shall designate United States Route 27X in Jessamine County as the "Senator Tom Buford Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 36. The Transportation Cabinet shall designate Kentucky Route 2827 in Jessamine County as the "Bernard T. Moynahan Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 37. The Transportation Cabinet shall designate Kentucky Route 2129 in Bell County as the "Greg Page Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 38. The Transportation Cabinet shall designate the bridge on Kentucky Route 3630 in Jackson County, at mile point 2.65 (Bridge ID# 055B00011N), as the "Alvin Webb Memorial Bridge" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

→Section 39. The Transportation Cabinet shall designate Kentucky Route 144 in Daviess County, from mile point 2.304 to mile point 10.75, as the "SP5 Charles Francis Millay Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation. This designation shall supersede any previous designation of a roadway for Charles Francis Millay.

→Section 40. The Transportation Cabinet shall designate Kentucky Route 144 in Daviess County, from mile point 10.75 to mile point 16.2, as the "Warren Lanham Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation. This designation shall supersede any previous designation of a roadway for Warren Lanham.

➔Section 41. The Transportation Cabinet shall designate Kentucky Route 3398 in Lawrence County, from United States Route 23 to Kentucky Route 3, as the "Jimmy Wayne Hardwick, Ellsworth Swann, and Charles Spencer Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

Signed by Governor March 21, 2023.

CHAPTER 44

(HB 164)

AN ACT relating to jail standards.

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

➔Section 1. KRS 441.055 is amended to read as follows:

- (1) The Department of Corrections shall for those counties which elect to house state prisoners in their jail:
 - (a) 1. Adopt the recommendations of the Jail Standards Commission created pursuant to Executive Order Number 81-1026 and promulgate regulations pursuant to KRS Chapter 13A establishing minimum standards for jails. These standards shall include but not be limited to rules governing the following areas:
 - a. Health and safety conditions;
 - b. Fire safety;
 - c. Jail operations, recordkeeping, and administration;
 - d. Curriculum of basic and continuing annual training for jailers and jail personnel;
 - e. Custody, care, and treatment of prisoners;
 - f. Medical care; and
 - g. Jail equipment, renovation, and construction.
 2. These minimum standards shall specifically allow for:
 - a. ~~i. [a.]~~ Provision of required documents to prisoners through electronic format;
 - ~~ii. [b.]~~ Confidential prisoner access to attorneys through unmonitored phone lines in non-contact visitation areas;
 - ~~iii. [c.]~~ Measures to prevent receipt of prisoner mail containing intoxicants, including in fabricated legal mail; and
 - ~~iv. [d.]~~ Delivery of mail received from the court, an attorney of record, or a public official to the prisoner via an electronic copy provided on a secure, personal account after opened and inspected in the presence of the prisoner; **and**
 - b. ***The appointment or employment of persons who have attained the age of eighteen (18) years or older who are otherwise qualified to serve in the position in which they are appointed or employed to work inside the secure perimeter of the jail; however, no person under the age of twenty one (21) years shall be employed as a deputy jailer, possess or exercise peace officer powers, or function in a role similar to that of a deputy jailer, nor shall an individual under the age of twenty one (21) years be employed in a position that involves supervision over inmates or persons yet to be booked into the jail. Persons who are under the age of twenty-one (21) years shall have a high school diploma or a High School Equivalency Diploma;***
- (b) Develop a jail standards review process, which shall include the participation of persons knowledgeable of jail operations to review and amend the standards as necessary. The jail standards shall be reviewed no later than December 31, 1992, and at least every two (2) years thereafter. Fifty percent (50%) of the

participants in the review process shall be appointed from persons representing county interests and fifty percent (50%) shall be appointed from persons representing state interests; and

- (c) Provide technical assistance and consultation to local governments in order to facilitate compliance with standards.
- (2) The department shall, for those counties that elect not to hold state prisoners in their jails, adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations pursuant to KRS Chapter 13A to establish minimum standards for those jails. These standards shall be limited to health and life safety *and shall permit persons who have attained the age of eighteen (18) years or older who are otherwise qualified to serve in the position in which they are appointed or employed to work inside the secure perimeter of the jail; however, no person under the age of twenty one (21) years shall be employed as a deputy jailer, possess or exercise peace officer powers, or function in a role equal to that of a deputy jailer, nor shall an individual under the age of twenty one (21) years be employed in a position that involves supervision over inmates or persons yet to be booked into the jail. Persons who are under the age of twenty-one (21) years shall have a high school diploma or a High School Equivalency Diploma.*
- (3) All minimum standards promulgated by the department applying to jails shall include requirements for adequate nutrition for pregnant prisoners, an adequate number of hygiene products for female prisoners, and an appropriate number of undergarments for female prisoners.
- (4) The department may establish classifications of jails based on the maximum permissible period of incarceration or other criteria and promulgate standards for each class of jail.

Signed by Governor March 21, 2023.

CHAPTER 45

(HB 334)

AN ACT relating to intermediate care facilities for individuals with an intellectual disability.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

An application to increase the number of beds by an intermediate-care facility for individuals with an intellectual disability (ICF/ID) as defined in KRS Chapter 202B shall be consistent with the state health plan if the applicant:

- (1) *Is an ICF/ID owned by a nongovernmental entity;*
- (2) *Requests additional beds in a freestanding building on or off the campus of the ICF/ID facility;*
- (3) *Demonstrates that the additional beds will be filled with individuals from the applicant's waiting list or from a community-based setting that the applicant currently supports; and*
- (4) *Demonstrates that each individual living at the ICF/ID will have an individualized plan developed to improve their life experiences.*

Signed by Governor March 22, 2023.

CHAPTER 46

(SJR 54)

A JOINT RESOLUTION directing the Department for Medicaid Services to study and examine Medicaid reimbursements.

WHEREAS, the United Health Foundation in their 2022 America's Health Rankings report ranked Kentucky as the 43rd overall healthiest state; and

WHEREAS, in 2019 Kentucky ranked 45th among the United States in its primary care physician workforce with just 58 primary care physicians per 100,000 residents; and

WHEREAS, roughly 40% of Kentuckians live in rural areas but only 17% of the state's primary care physicians practice in rural areas; and

WHEREAS, it is difficult to recruit and retain healthcare providers to serve in rural and socioeconomically disadvantaged suburban and urban areas; and

WHEREAS, a growing field of research shows that individuals who live in socioeconomically disadvantaged or deprived communities, regardless of whether the community is urban or rural, suffer higher rates of chronic disease including diabetes, cardiovascular disease, and other chronic conditions, utilize healthcare services more frequently, and experience higher rates of premature death; and

WHEREAS, the health-related social needs of individuals who reside in socioeconomically disadvantaged or deprived communities are often far greater than the needs of individuals who reside in more prosperous communities; and

WHEREAS, health interventions and policies that fail to consider a community's level of disadvantage or deprivation and the health-related social needs of the community's residents are likely to be ineffective at addressing the health disparities and challenges often observed in many socially disadvantaged communities; and

WHEREAS, a better understanding of variations in community deprivation could lead to improved insights into the sociobiologic mechanisms that underlie health disparities; and

WHEREAS, the Area Deprivation Index was originally developed by the Health Resources and Services Administration, an agency of the United States Department of Health and Human Services, nearly three decades ago and is comprised of 17 education, employment, housing, and poverty measures originally drawn from long-form Census data and updated to incorporate more recent American Community Survey Data; and

WHEREAS, there has been extensive research on the Area Deprivation Index and the updated index has been validated for a range of health outcomes and disease domains; and

WHEREAS, numerous academic health systems and state and federal collaborators are already using the Area Deprivation Index to inform research, outreach, and policy; and

WHEREAS, the Area Deprivation Index can be used to inform risk-adjustment strategies, financial incentives, payment reform, infrastructure targeting, benefit decisions, and program eligibility; and

WHEREAS, several states including Massachusetts, Maine, Washington, and Hawaii, have taken steps to account for social risks and health-related social needs in health care payment models; and

WHEREAS, failure to improve health outcomes and address health disparities now will create a larger financial liability for the state in the future;

NOW, THEREFORE,

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

➔Section 1. The Department for Medicaid Services shall:

(1) Study efforts undertaken by other states to account for social risks and health-related social needs in Medicaid payment models;

(2) Review federal regulations related to Medicaid reimbursements and the ability of states to design reimbursement models that effectively address social risks and health-related social needs;

(3) Assess the appropriateness of the Area Deprivation Index as valid measure of social risks and health-related social needs in Kentucky; and

(4) Develop a proposal to modify Kentucky's current Medicaid reimbursement model to better account for the social risks and health-related social needs at the community level by modifying reimbursement rates for providers based on the Area Deprivation Index score of the location in which the provider practices.

➔Section 2. The Department for Medicaid Services shall submit its findings and proposal for the modification of the state's Medicaid reimbursement model to the Legislative Research Commission for referral to the appropriate committee or committees no later than November 1, 2023.

➔Section 3. The Department for Medicaid Services is hereby directed to examine the current reimbursement rates paid to outpatient pediatric therapy providers, including providers of pediatric audiology services, behavioral therapy services, occupational therapy services, physical therapy services, and speech therapy services, develop a proposal for increasing those reimbursement rates, and submit a report containing the findings of the examination and the proposal for rate increases to the Interim Joint Committees on Appropriations and Revenue and Health, Welfare, and Family Services no later than July 15, 2023.

➔Section 4. Whereas improving health outcomes and effectively addressing health disparities is crucial to the success, health, and financial well-being of all citizens of the Commonwealth and to the Commonwealth as a whole, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 22, 2023.

CHAPTER 47

(SB 43)

AN ACT relating to essential caregivers and declaring an emergency.

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

➔Section 1. KRS 216.505 is amended to read as follows:

(1) As used in this section:

- (a) **"Health facility" has the same meaning as in KRS Chapter 216B;**
- (b) **"Health service" has the same meaning as in KRS Chapter 216B;**
- (c) **"Medicaid waiver service" means a medical service provided under the acquired brain injury, the Michelle P. waiver, the supports for community living, or the home and community based waiver programs; and**
- (d) **"Psychiatric residential treatment facility" has the same meaning as in KRS 216B.450["Community" means assisted living community as defined in KRS 194A.700;**
- ~~(b) "Facility" includes long term care facilities as defined in KRS 216A.010 and residential long term care facilities as defined in KRS 216.510; and~~
- ~~(c) "Mental hospital" means a state owned or operated mental or psychiatric hospital.~~

(2) Notwithstanding any state law to the contrary, the Cabinet for Health and Family Services shall require a **health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility**~~[community, a facility, and a mental hospital]~~ to permit in-person resident visitation by at least one (1) essential personal care visitor, including a family member, legal guardian, outside caregiver, friend, or volunteer who is important to the mental, physical, or social well-being of the resident.

(3) The cabinet shall, within fourteen (14) days of **the effective date of this Act**~~[February 7, 2022]~~, promulgate administrative regulations in accordance with KRS Chapter 13A that, subject to applicable federal requirements:

- (a) Establish procedures for a resident to designate at least one (1) essential personal care visitor and procedures to change the designated essential personal care visitor;
- (b) Exempt an essential personal care visitor, **including during a communicable disease outbreak in a health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility, regardless of the resident's communicable disease status**, from any prohibitions on visiting a resident of a **health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility**~~[community, a facility, or a mental hospital]~~ other than the requirements in this subsection;
- (c) Require an essential personal care visitor to follow safety protocols of the **health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility**~~[community, the facility, or the mental hospital]~~;

- (d) Require an essential personal care visitor to assume a risk of contracting communicable diseases, provided the *health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility* ~~[community, the facility, or the mental hospital]~~ is compliant with the Kentucky Department for Public Health guidelines;
- (e) Permit a *health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility* ~~[community, a facility, or a mental hospital]~~ to require a written visitation agreement with an essential personal care visitor;
- (f) Permit a *health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility* ~~[community, facility, or mental hospital]~~ to limit visitation of an essential personal care visitor to the resident or residents he or she is approved to visit;
- (g) Permit a *health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility* ~~[community, facility, or mental hospital]~~ to limit the total number of essential personal care visitors allowed in the *health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility* ~~[community, facility, or mental hospital]~~ at any one (1) time; and
- (h) Except as provided in this section, do not require a *health facility, health service, Medicaid waiver service, or psychiatric residential treatment facility* ~~[community, facility, or mental hospital]~~ to permit an in-person visitor at all times.

➔Section 2. Whereas, the General Assembly recognizes that the mental, physical, and social well-being of residents in health facilities is greatly enhanced by assistance from essential personal care visitors, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 22, 2023.

CHAPTER 48

(SB 42)

AN ACT relating to the state employee health plan.

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

➔Section 1. KRS 18A.2258 is amended to read as follows:

- (1) (a) By December 31, 2022, the secretary of the Finance and Administration Cabinet shall, upon the recommendation of the secretary of the Personnel Cabinet and in accordance with KRS Chapter 45A, select and ~~enter into a~~ contract *with*, the effective date of which shall not be later than January 1, 2023, ~~with~~ a single independent entity for the purpose of monitoring all pharmacy benefit claims for every individual enrolled in the Public Employee Health Insurance Program.
- (b) *By December 31, 2023, in addition to the contract in paragraph (a) of this subsection, the secretary of the Finance and Administration Cabinet shall, upon the recommendation of the secretary of the Personnel Cabinet and in accordance with KRS Chapter 45A, select and contract with a single independent entity for the purpose of monitoring all health care service benefit claims, other than pharmacy benefit claims, for every individual enrolled in the Public Employee Health Insurance Program.*
- (c) ~~Any~~ ~~[A]~~ contract entered into pursuant to this subsection shall:
 - 1. Not be for a term longer than two (2) years but may be renewed for like or lesser periods; and
 - 2. Limit compensation paid to the contracted entity to not more than thirty percent (30%) of the total savings generated by the contracted entity as determined by the Personnel Cabinet.
- (2) To be eligible to receive a contract pursuant to subsection (1) of this section, an entity shall:
 - (a) Be capable of performing the analysis of ~~[pharmacy]~~ benefit claims to validate accuracy and identify errors in near real time;

- (b) Not be an entity that performs annual retroactive audits of ~~pharmacy~~ benefit claims for the Public Employee Health Insurance Program; and
 - (c) Not be affiliated by common parent company or holding company, share any common members of the board of directors, or share managers in common with:
 - 1. An insurer contracted pursuant to KRS 18A.225;
 - 2. A third-party administrator contracted pursuant to KRS 18A.2254; or
 - 3. A pharmacy benefit manager contracted by:
 - a. The Personnel Cabinet;
 - b. An insurer contracted pursuant to KRS 18A.225; or
 - c. A third-party administrator contracted pursuant to KRS 18A.2254.
- (3) The entity *or entities* contracted pursuant to subsection (1) of this section shall:
- (a) Be granted full access to:
 - 1. Any contract awarded to a *third-party administrator or* pharmacy benefit manager for the purpose of administering ~~pharmacy~~ benefits in the Public Employee Health Insurance Program and all pertinent reference documents within that contract, including but not limited to any *pharmacy* price lists or specialty drug price lists which shall be provided to the monitoring entity contracted pursuant to this section by the Personnel Cabinet and which shall be updated by the Personnel Cabinet within five (5) days of the effective date of any pricing changes;
 - 2. Any other contract that defines *an insurer's, third-party administrator's, or* ~~a~~ pharmacy benefit manager's obligations and responsibilities as it relates to processing Public Employee Health Insurance Program ~~pharmacy~~ benefit claims, including any contract between ~~a~~ ~~the~~ pharmacy benefit manager and an insurer contracted pursuant to KRS 18A.225 or a third-party administrator contracted pursuant to KRS 18A.2254; and
 - 3. Invoices and unaltered claims files associated with *benefits under* the Public Employee Health Insurance Program ~~pharmacy benefits~~;
 - (b) Analyze one hundred percent (100%) of invoices or claims submitted for payment by the Public Employee Health Insurance Program. The entity shall not utilize statistical sampling methods in lieu of analyzing all invoices and claims;
 - (c) Identify and correct errors in ~~pharmacy~~ benefit claims in order to avoid or reduce erroneous overpayments by an insurer contracted pursuant to KRS 18A.225, a third-party administrator contracted pursuant to KRS 18A.2254, or a pharmacy benefit manager contracted to administer pharmacy benefits in the Public Employee Health Insurance Program;
 - (d) Identify underpayments made by an insurer contracted pursuant to KRS 18A.225, a third-party administrator contracted pursuant to KRS 18A.2254, or a pharmacy benefit manager contracted to administer pharmacy benefits in the Public Employee Health Insurance Program;
 - (e) Identify inappropriate or erroneous fees imposed by an insurer contracted pursuant to KRS 18A.225, a third-party administrator contracted pursuant to KRS 18A.2254, or a pharmacy benefit manager contracted to administer pharmacy benefits in the Public Employee Health Insurance Program; and
 - (f) ~~Beginning on April 30, 2023, and quarterly thereafter,~~ Submit a *quarterly* report to the Legislative Research Commission. The report shall include a summary of the analysis and errors identified pursuant to paragraphs (c), (d), and (e) of this subsection during the previous quarter.
- (4) The entity *or entities* contracted pursuant to subsection (1) of this section shall not perform drug utilization reviews *and shall not exercise any authority over the provision of health care benefits for Medicare eligible retirees.*
- (5) The analysis of claims and the identification of potential errors required by subsection (3)(b), (c), and (d) of this section shall:
- (a) Occur prior to the due date of each claim or invoice submitted by an insurer contracted pursuant to KRS 18A.225, a third-party administrator contracted pursuant to KRS 18A.2254, or a pharmacy benefit

manager contracted to administer pharmacy benefits in the Public Employee Health Insurance Program or within five (5) days of receipt of the claim or invoice, whichever is later; and

(b) Consider at least the following:

1. Compliance with all relevant administrative regulations promulgated by the Personnel Cabinet;
2. Compliance with all state and federal laws relating to or applicable to the Public Employee Health Insurance Program;
3. Compliance with any contract *with an insurer, third-party administrator, or* ~~[between a] pharmacy benefit manager and the Personnel Cabinet, an insurer contracted pursuant to KRS 18A.225, or a third party administrator contracted pursuant to KRS 18A.2254~~; and
4. The market competitiveness of ~~[pharmacy]~~ benefit payments, including the adequacy of payments to pharmacies *and other health care providers*.

(6) The Personnel Cabinet may promulgate administrative regulations necessary to carry out this section.

➔Section 2. The first quarterly report due under subsection (3)(f) of Section 1 of this Act for monitoring pharmacy benefits claims shall be due on April 30, 2023.

➔Section 3. The first quarterly report due under subsection (3)(f) of Section 1 of this Act for monitoring health care service benefits claims shall be due April 30, 2024.

Signed by Governor March 22, 2023.

CHAPTER 49

(SJR 98)

A JOINT RESOLUTION relating to state administrative bodies.

WHEREAS, public universities and community colleges serve as economic development incubators for the cities and regions in which they are located, both by the faculty and staff jobs the colleges provide and the business innovations that can spring from collaborations in the academic environment; and

WHEREAS, Kentucky's postsecondary governance structure currently includes the Council on Postsecondary Education as the systemwide coordinating agency charged with developing and implementing a strategic agenda and a system of public accountability for evaluating the performance and effectiveness of the state's postsecondary system. Kentucky's universities are governed by individual boards and a governing board oversees the Kentucky Community and Technical College system and local advisory boards are affiliated with the individual campuses; and

WHEREAS, as the Commonwealth has, through the years, located regional universities throughout the state charged by the General Assembly with providing a seamless, integrated system of postsecondary education strategically planned to enhance economic development and quality of life; and

WHEREAS, the mission of the community and technical colleges is to work cooperatively with postsecondary institutions throughout the Commonwealth to align program and training programs necessary to develop a workforce with the skills to meet the needs of new and existing industries and improve employability of citizens; and

WHEREAS, the southeastern region of Kentucky is conspicuously without a public, residential, four-year university, hindering its ability to make the same economic progress as other regions of the state; and

WHEREAS, the southeastern region of Kentucky is being forced to pursue new economic development and workforce strategies due to the decline in the coal industry; and

WHEREAS, the Council on Postsecondary Education is statutorily charged with the responsibility to review proposals for the establishment of new four-year colleges; and

WHEREAS, the Council on Postsecondary Education is statutorily charged with the responsibility of eliminating or changing existing academic programs to provide consistency and alignment with institutional missions and the state's strategic implementation plan as well as avoiding duplication of programs;

NOW, THEREFORE,

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

➔Section 1. The Council on Postsecondary Education shall conduct a thorough study of:

(1) The structure of higher education governance in the Commonwealth, including the current condition and projected needs of the state over the next 20 years in terms of postsecondary education attainment, workforce, and economic needs. The analysis shall consider: population and demographic trends; economic and workforce conditions and needs; state of college preparation; extent of postsecondary access, completion, and affordability; student learning options; and education finance. The study shall include recommendations on changes needed to the state's postsecondary governance structure that would be essential to meet identified needs and ensure the best delivery of postsecondary educational services to students;

(2) The impact and feasibility of establishing a regional, residential, four-year public university in southeastern Kentucky. The study shall include a comprehensive review of the prospect of:

(a) Establishing a new regional, residential, four-year public university in southeastern Kentucky and the impact that would have on the existing regional universities in the Commonwealth;

(b) Establishing a residential campus in southeastern Kentucky that is a satellite campus of an existing regional public university; and

(c) The Commonwealth acquiring an existing, private university in southeastern Kentucky to serve the region as a new regional, residential, four-year public university, as an alternative to establishing an entirely new four-year university; and

(3) The feasibility and programmatic and fiscal impacts of having the Kentucky Community and Technical College System continue to be responsible for technical education programs but transferring responsibility for traditional academic subjects to the regional universities. The study shall include a comprehensive review of how this transition might impact each regional university and the potential implications on any proposal for establishing a four-year university in southeastern Kentucky identified in subsection (2) of this section and the potential impact on prospective Kentucky Community and Technical College System students statewide.

➔Section 2. The President of the Council on Postsecondary Education shall report the comprehensive study required by Section 1 of this Joint Resolution with findings and recommendations to the Legislative Research Commission to be distributed to the relevant subject matter committees, including but not limited to the Interim Joint Committee on Economic Development and Workforce Investment and the Interim Joint Committee on Education by December 1, 2023.

➔Section 3. The General Assembly of the Commonwealth of Kentucky hereby approves Phase 1 of the State Fair Board's comprehensive statewide proposal for improving properties dated November 29, 2022, and submitted to the Interim Joint Committee on Appropriations and Revenue. The Office of State Budget Director is authorized to release the \$180,000,000 in capital construction funds for use by the State Fair Board in fiscal year 2024 as appropriated by 2022 Ky. Acts ch. 199 and amended by 2022 Ky. Acts ch. 239.

Signed by Governor March 22, 2023.

CHAPTER 50

(SB 20)

AN ACT relating to banning social media applications from state government technology and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) *For the purposes of this section, "TikTok" means the social networking service owned by the Chinese company ByteDance Limited or any successor application.*

(2) *Except as provided in subsection (7)(b) of this section, no executive branch employee, executive branch agency, or person or entity who contracts with the Commonwealth shall download or use the TikTok application or visit the TikTok website on any:*

- (a) *Network owned, operated, or otherwise under the control of state government; or*
 - (b) *State government-issued device, including but not limited to:*
 - 1. *Cellphone;*
 - 2. *Computer; or*
 - 3. *Any other device capable of Internet connectivity.*
- (3) *The Commonwealth Office of Technology shall implement controls to prevent the use of TikTok for the executive branch agencies in which it has control over the network, and on any device connected to a network, owned, operated, or otherwise under control of the Commonwealth Office of Technology.*
- (4) *No member of the General Assembly, legislative staff, legislative agency or entity, or person or entity who contracts with the General Assembly, Legislative Research Commission, or legislative branch shall download or use the TikTok application or visit the TikTok website on any:*
- (a) *Network owned, operated, or otherwise under the control of state government; or*
 - (b) *State government-issued device, including but not limited to:*
 - 1. *Cellphone;*
 - 2. *Computer; or*
 - 3. *Any other device capable of Internet connectivity.*
- (5) *The legislative branch of state government shall implement controls to prevent the use of TikTok on any device connected to any network owned, operated, or otherwise under the control of the legislative branch of state government.*
- (6) *The judicial branch of state government may implement controls to prevent the use of TikTok on any device connected to any network owned, operated, or otherwise under the control of judicial branch of state government.*
- (7) *This section shall not apply to any:*
- (a) *Public postsecondary education institution operating under KRS Chapter 164; or*
 - (b) *Executive branch agency that determines that the use of TikTok is necessary for:*
 - 1. *Law enforcement activities;*
 - 2. *Civil investigations or civil enforcement activities; or*
 - 3. *Research on security practices or security threats;*
- so long as the agency takes appropriate steps to obtain the necessary access without endangering the agency's network, or any other network owned, operated, or otherwise under the control of state government.*

➔Section 2. Whereas preserving the safety, security, privacy, and way of life of the Commonwealth and its citizens is of paramount importance, and the state must take steps to prevent the collection of private data of Kentucky citizens by platforms such as TikTok that may share sensitive information with foreign governments, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 22, 2023.

CHAPTER 51

(SB 110)

AN ACT relating to health care.

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

➔Section 1. KRS 314.091 is amended to read as follows:

- (1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for in accordance with this chapter or the privilege to practice as a nurse recognized by the board in accordance with this chapter, or to otherwise discipline a licensee, credential holder, privilege holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:
 - (a) Is guilty of fraud or deceit in procuring or attempting to procure a license, credential, or privilege to practice nursing;
 - (b) Has been convicted of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States, if in accordance with KRS Chapter 335B. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence;
 - (c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;
 - (d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;
 - (e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;
 - (f) Abuses controlled substances, prescription medications, illegal substances, or alcohol;
 - (g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others;
 - (h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records;
 - (i) Has a license, privilege, or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license or privilege to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth, including action by another jurisdiction for failure to repay a student loan;
 - (j) Has violated any of the provisions of this chapter;
 - (k) Has violated any lawful order or directive previously entered by the board;
 - (l) Has violated any administrative regulation promulgated by the board;
 - (m) Has been listed on *either the adult caregiver misconduct registry or the nurse aide abuse registry* with a substantiated finding of abuse, neglect, or misappropriation of property, *or has a substantiated finding or judicial finding of the abuse or neglect of a child*;
 - (n) Has violated the confidentiality of information or knowledge concerning any patient, except as authorized or required by law;
 - (o) Used or possessed a Schedule I controlled substance;
 - (p) Has used or been impaired as a consequence of the use of alcohol or drugs while practicing as a nurse;
 - (q) Has violated KRS 304.39-215;
 - (r) Has engaged in conduct that is subject to the penalties under KRS 304.99-060(4) or (5); or
 - (s) As provided in KRS 311.824(2), has been convicted of a violation of KRS 311.823(2).
- (2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license, privilege, or credential may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.
- (3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for

contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

- (4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.
- (5) A final order of the board shall be by majority vote thereof.
- (6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.
- (7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license, privilege, or credential may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.
- (8) The board may, by administrative regulation, provide for the recovery of the costs of an administrative hearing.

➔Section 2. KRS 314.101 is amended to read as follows:

- (1) This chapter does not prohibit the following:
 - (a) The practice of any currently licensed nurse in good standing in another state from being recognized as having a temporary work permit in this state. Any currently licensed nurse in good standing in another state who is practicing nursing in Kentucky shall be subject to the jurisdiction of the board under KRS 314.099;
 - (b) The practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved by the board or in graduate programs in nursing;
 - (c) The practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of his or her official duties;
 - (d) The practice of any currently licensed nurse of another state ~~who that~~ is not a member of the Nurse Licensure Compact set forth in KRS 314.475 **and who is in this state on a nonroutine basis not to exceed seven (7) days**; or
 - (e) The practice of volunteer health practitioners under KRS 39A.350 to 39A.366.
- (2) Nothing in this chapter shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in connection with the practice of the religious tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in this chapter.
- (3) Nothing in this chapter shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their licenses.
- (4) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for, and paid the fee for licensure by endorsement. Temporary work permits shall be issued only for the length of time required to process applications for endorsement and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.
- (5) The board may summarily withdraw a temporary work permit upon determination that the person does not meet the requirements for licensure or has disciplinary action pending against the person's license in this or another jurisdiction.

➔Section 3. KRS 314.121 is amended to read as follows:

- (1) The Governor shall appoint a Board of Nursing consisting of seventeen (17) members:
 - (a) Ten (10) members shall be registered nurses licensed to practice in the Commonwealth, with the Governor ensuring that the appointees represent different specialties from a broad cross-section of the nursing profession after soliciting and receiving nominations from recognized specialty state component societies;

- (b) Three (3) members shall be practical nurses licensed to practice in the Commonwealth;
 - (c) One (1) member shall be a nurse service administrator who is a registered nurse licensed to practice in the Commonwealth;
 - (d) One (1) member shall be engaged in practical nurse education who is a registered nurse licensed to practice in the Commonwealth; and
 - (e) Two (2) members shall be citizens at large, who are not associated with or financially interested in the practice or business regulated.
- (2) Each appointment shall be subject to confirmation by the Senate and shall be for a term of four (4) years expiring on June 30 of the fourth year. No board member shall serve for more than three (3) consecutive terms. Any board member who is serving at least a third consecutive term on April 7, 2022, shall be ineligible for reappointment until the passage of one (1) full four (4) year appointment cycle. The cycle for appointments and expiration of terms shall be as follows:
- (a) The first year of the four (4) year cycle, the terms for three (3) registered nurses and one (1) licensed practical nurse shall expire;
 - (b) The second year of the four (4) year cycle, the terms for three (3) registered nurses and one (1) citizen at large shall expire;
 - (c) The third year of the four (4) year cycle, the terms for two (2) registered nurses, one (1) licensed practical nurse, and the one (1) member engaged in practical nurse education who is a registered nurse shall expire; and
 - (d) Before January 1, 2024, in the fourth year of the four (4) year cycle, the terms for two (2) registered nurses, one (1) licensed practical nurse, and one (1) citizen at large shall expire. Beginning on January 1, 2024, in the fourth year of the four (4) year cycle, the terms for two (2) registered nurses, one (1) certified registered nurse anesthetist, one (1) licensed practical nurse, and one (1) citizen at large shall expire.
- (3)
- (a) By March 1, the Kentucky Nurses Association shall submit to the Governor a list of members qualified for appointment as R.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments necessary by July 1. By March 1 of the year in which the certified registered nurse anesthetist term expires, the Kentucky Nurses Association shall submit to the Governor two (2) names of qualified individuals for the appointment, and from this list the Governor shall make the appointment by July 1.
 - (b) By March 1, Kentucky Licensed Practical Nurses Organization Incorporated shall submit to the Governor a list of names qualified for appointment as L.P.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments as necessary by July 1.
 - (c) By March 1 of the year in which the nurse service administrator's term shall expire, the Kentucky Organization of Nurse Leaders, an affiliate of the Kentucky Hospital Association, shall submit to the Governor two (2) names of qualified individuals for appointment as the nurse service administrator from which list the Governor shall make an appointment as necessary by July 1.
 - (d) By March 1, LeadingAge Kentucky shall submit to the Governor two (2) names of qualified individuals for appointments as its R.N. representative to the board, from which the Governor shall make an appointment by July 1.
 - (e) By March 1 of the year in which the Kentucky Association of Health Care Facilities representative's term shall expire, the Kentucky Association of Health Care Facilities shall submit to the Governor two (2) names of qualified individuals for appointment as its R.N. representative to the board, from which list the Governor shall make an appointment as necessary by July 1.
 - (f) By March 1 of the year in which the practical nurse educator's term expires, Kentucky Licensed Practical Nurses Organization Incorporated shall submit to the Governor two (2) names of qualified individuals for the appointment, from which list the Governor shall make the appointment by July 1.
 - (g) The Governor shall appoint two (2) members who shall be citizens at large, who are not associated with or financially interested in the practice or business regulated. The Governor shall make the appointments by July 1 of the year in which the citizen members' terms expire.

- (4) Among the seventeen (17) members of the board, at all times, at least two (2) members shall be appointed from each of the six (6) congressional districts of the Commonwealth.
- (5) Among the nurse board members appointed under subsection (1)(a), (b), (c), and (d) of this section, ***no less than three (3) and*** no more than six (6) nurse board members shall be nurse educators~~[- Of these six (6) nurse educators, one (1) nurse educator member shall be appointed from each of the six (6) congressional districts of the Commonwealth]~~. All other nurse members of the board shall be practicing nurses.
- (6) A vacancy on the board shall be filled by the Governor as provided for under subsection (1) of this section.
- (7) The Governor may remove any member from the board for neglect of duty, incompetence, or unprofessional or dishonorable conduct.
- (8) Each R.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of nursing, and a registered nurse in this state. All shall have had at least five (5) years of experience in nursing, three (3) of which shall immediately precede such appointment. Five (5) members shall be engaged in nursing practice; three (3) shall be engaged in nursing education; one (1) shall be engaged in advanced practice registered nursing; one (1) shall be a certified registered nurse anesthetist; and one (1) shall be in nursing administration.
- (9) Each L.P.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of practical nursing or its equivalent, licensed as a licensed practical nurse in this state, have at least five (5) years of experience in nursing, three (3) of which shall immediately precede this appointment, and be currently engaged in nursing practice.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The Kentucky Board of Nursing shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish the following for the credentialing of medication aides:

- (1) ***Educational requirements;***
- (2) ***Standards for training programs including delegation of the administration of oral or topical medications and preloaded insulin injection;***
- (3) ***Credentialing requirements including delegation of the administration of oral or topical medications and preloaded insulin injection; and***
- (4) ***Fees for initial, renewal, and reinstatement of credentials, and any other necessary fees.***

➔Section 5. KRS 194A.705 is amended to read as follows:

- (1) The assisted living community shall provide each resident with access to the following services according to the lease agreement:
 - (a) Assistance with activities of daily living and instrumental activities of daily living;
 - (b) Three (3) meals and snacks made available each day, with flexibility in a secured dementia care unit to meet the needs of residents with cognitive impairments who may eat outside of scheduled dining hours;
 - (c) Scheduled daily social activities that address the general preferences of residents;
 - (d) Assistance with self-administration of medication; and
 - (e) Housing.
- (2)
 - (a) The assisted living community may provide residents with access to basic health and health-related services.
 - (b) If an assisted living community chooses to provide basic health and health-related services, the assisted living community shall supervise the residents.
 - (c) ***Notwithstanding KRS 194A.700(4)(e), in a long-term care facility that provides basic health and health related-services or dementia care services, a certified medication aide or an unlicensed staff person who has successfully completed a medication aide training and skills competency evaluation program approved by the Kentucky Board of Nursing may administer oral or topical medication, or preloaded injectable insulin to a resident under the authority of an available licensed practical nurse, registered nurse, or advanced practice registered nurse.***

- (3) (a) Residents of an assisted living community may arrange for additional services under direct contract or arrangement with an outside agent, professional, provider, or other individual designated by the resident if permitted by the policies of the assisted living community.
- (b) Permitted services for which a resident may arrange or contract include but are not limited to health services, hospice services provided by a hospice program licensed under KRS Chapter 216B, and other end-of-life services.
- (4) Upon entering into a lease agreement, an assisted living community shall inform the resident in writing about policies relating to the provision of services by the assisted living community and the contracting or arranging for additional services.
- (5) A resident issued a move-out notice shall receive the notice in writing and the assisted living community shall assist each resident upon a move-out notice to find appropriate living arrangements. Each assisted living community shall share information provided from the cabinet regarding options for alternative living arrangements at the time a move-out notice is given to the resident.
- (6) An assisted living community shall complete and provide to the resident:
 - (a) Upon move-in, a copy of a functional needs assessment pertaining to the resident's ability to perform activities of daily living and instrumental activities of daily living and any other topics the assisted living community determines to be necessary; and
 - (b) After move-in, a copy of an updated functional needs assessment pertaining to the resident's ability to perform activities of daily living and instrumental activities of daily living, the service plan designed to meet identified needs, and any other topics the assisted living community determines to be necessary.

➔Section 6. KRS 194A.710 is amended to read as follows:

- (1) An assisted living community shall not operate unless it is licensed under this chapter. A licensee shall be legally responsible for the management, control, and operations of the facility.
- (2) The following categories are established for assisted living community licensure:
 - (a) An assisted living community license for any **facility that provides assisted living services, excluding basic health and health-related services**~~[community without a secured dementia care unit];[and]~~
 - (b) An assisted living community with **basic health care license for any facility that:**
 - 1. **Provides assisted living services, including basic health and health-related services directly to its residents; and**
 - 2. **Does not have a secured dementia care unit; and**
 - (c) **An assisted living community with dementia care license for any facility**~~[an assisted living community]~~ that provides assisted living services and dementia care services in a secured dementia care unit.
- (3) ~~An~~~~[On or after July 14, 2022, no]~~ assisted living community shall **not** operate a secured dementia care unit without first obtaining an assisted living community with dementia care license from the cabinet. A license issued pursuant to this section shall not be assignable or transferable.
- (4) **The Office of Inspector General shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish:**
 - (a) **Licensing classifications within the categories as described in subsection (2) of this section; and**
 - (b) **Standards to help ensure the health, safety, and well-being of residents.**

Signed by Governor March 22, 2023.

AN ACT relating to organ donation.

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

➔Section 1. KRS 311.1925 is amended to read as follows:

- (1) Subject to subsections (2) and (3) of this section and unless barred by KRS 311.1921 or 311.1923, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:
 - (a) An agent of the decedent at the time of death who could have made an anatomical gift under KRS 311.1915(2) immediately before the decedent's death;
 - (b) The spouse of the decedent;
 - (c) Adult children of the decedent;
 - (d) Parents of the decedent;
 - (e) Adult siblings of the decedent;
 - (f) Adult grandchildren of the decedent;
 - (g) Grandparents of the decedent;~~and~~
 - (h) The persons who were acting as the guardians of the person of the decedent at the time of death; *and*
 - (i) ***Another adult who is related to the decedent by blood, marriage, or adoption, or who exhibited special care and concern for the decedent.***
- (2) If there is more than one (1) member of a class listed in subsection (1)(a), (c), (d), (e), (f), (g),~~(h)~~, *or (i)* of this section entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under KRS 311.1929 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.
- (3) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under subsection (1) of this section is reasonably available to make or to object to the making of an anatomical gift.

➔Section 2. KRS 311.1929 is amended to read as follows:

- (1) An anatomical gift may be made to the following persons named in the document of gift:
 - (a) A hospital; accredited medical school, dental school, college, or university; organ procurement organization; or other appropriate person, for research or education ***for the advancement of donation and transplantation science;***
 - (b) Subject to subsection (2) of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part; or
 - (c) An eye bank or tissue bank.
- (2) If an anatomical gift to an individual under subsection (1)(b) of this section cannot be transplanted into the individual, the part passes in accordance with subsection (7) of this section in the absence of an express, contrary indication by the person making the anatomical gift.
- (3) If an anatomical gift of one (1) or more specific parts or of all parts is made in a document of gift that does not name a person described in subsection (1) of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:
 - (a) If the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank;
 - (b) If the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank;
 - (c) If the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ; or

- (d) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.
- (4) For the purpose of subsection (3) of this section, if there is more than one (1) purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education *for the advancement of donation and transplantation science*.
- (5) If an anatomical gift of one (1) or more specific parts is made in a document of gift that does not name a person described in subsection (1) of this section and does not identify the purpose of the gift, the gift may be used only for transplantation, ~~or~~ therapy, *or research and education for the advancement of donation and transplantation*, and the gift passes in accordance with subsection (7) of this section.
- (6) If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar import, the gift may be used only for transplantation, ~~or~~ therapy, *or research and education for the advancement of donation and transplantation science*, and the gift passes in accordance with subsection (7) of this section.
- (7) For purposes of subsections (2), (5), and (6) of this section the following rules apply:
- (a) If the part is an eye, the gift passes to the appropriate eye bank;
- (b) If the part is tissue, the gift passes to the appropriate tissue bank, except that a tissue bank shall not receive an ovum or sperm for the purpose of creating an embryo to be used in therapy, research, or education; or
- (c) If the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.
- (8) An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift under subsection (1)(b) of this section, passes to the organ procurement organization as custodian of the organ.
- (9) If an anatomical gift does not pass pursuant to subsections (1) to (8) of this section or the decedent's body or part is not used for transplantation, therapy, research, or education, custody of the body or part passes to the person under obligation to dispose of the body or part.
- (10) A person may not accept an anatomical gift if the person knows that the gift was not effectively made under KRS 311.1917 or 311.1927 or if the person knows that the decedent made a refusal under KRS 311.1921 that was not revoked. For purposes of the subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.
- (11) Except as otherwise provided in subsection (1)(b) of this section, nothing in KRS 311.1911 to 311.1959 affects the allocation of organs for transplantation or therapy.

➔Section 3. KRS 311.1935 is amended to read as follows:

- (1) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Transportation Cabinet, the registry created under KRS 311.1947, and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.
- (2) A procurement organization shall be allowed reasonable access to information in the records of the registries listed in subsection (1) of this section to ascertain whether an individual at or near death is a donor.
- (3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable *standard medical evaluation or* examination ~~[of records]~~ necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, *from the evaluation through the recovery of a medically suitable donor's gift*, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent. Measures necessary to ensure the medical suitability of the part from a prospective donor may be administered unless it is determined that the administration of those measures would not provide the prospective donor with appropriate end-of-life care, or it can be anticipated by reasonable medical judgment that such measures would result in or hasten the prospective donor's death.

- (4) Unless prohibited by law other than KRS 311.1911 to 311.1959, at any time after a donor's death, the person to which a part passes under KRS 311.1929 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.
- (5) Unless prohibited by law other than KRS 311.1911 to 311.1959, an examination under subsection (3) or (4) of this section may include an examination of all medical and dental records of the donor or prospective donor.
- (6) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.
- (7) Upon referral by a hospital under subsection (1) of this section, a procurement organization shall make a reasonable search for any person listed in KRS 311.1925 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.
- (8) Subject to KRS 311.1929(9) and 311.1953, the rights of the person to which a part passes under KRS 311.1929 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and KRS 311.1911 to 311.1959, a person that accepts an anatomical gift of an entire body may allow embalming, burial, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under KRS 311.1929, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.
- (9) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.
- (10) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

➔Section 4. KRS 311.1943 is amended to read as follows:

- (1) A person that acts in accordance with KRS 311.1911 to 311.1959 or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.
- (2) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.
- (3) In determining whether an anatomical gift has been made, amended, or revoked under KRS 311.1911 to 311.1959, a person may rely upon representations of an individual listed in KRS 311.1925(1)(b), (c), (d), (e), (f), ~~(g)~~ (g), (h), or (i) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

➔Section 5. KRS 311.1947 is amended to read as follows:

- (1) Contingent upon the availability of funding, the Cabinet for Health and Family Services shall facilitate the establishment of a statewide electronic registry for organ and tissue donation for transplantation, **therapy, education, and research for the advancement of donation and transplantation science** ~~purposes~~. The cabinet may contract with a public or private nonprofit entity to perform gatekeeper functions of the registry that include but are not limited to the operation, maintenance, privacy, and security of the registry.
- (2) An ongoing collaboration shall be established among the Transportation Cabinet, the Cabinet for Health and Family Services, the Kentucky Circuit Court Clerks Trust for Life, the Kentucky Hospital Association, the Kentucky Medical Association, and the federally certified organ and tissue procurement organizations that operate in Kentucky to develop strategies for the operation of the registry. Strategies shall include but not be limited to:
 - (a) Donor designation at the time of application or renewal of a driver's license;
 - (b) Donor designation at the time of application or renewal of a state identification card;
 - (c) Donor designation on the Commonwealth's single sign-on system;
 - (d) Other online registration as a donor;
 - (e) Removal or exit from the registry;

- (f) Timely access to the registry by relevant parties in accordance with federal laws and regulations relating to organ and tissue donation and procurement for transplantation purposes; and
 - (g) Evaluation of the effectiveness of the registry.
- (3) The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section.

Signed by Governor March 22, 2023.

CHAPTER 53

(SB 58)

AN ACT relating to professions assessing hearing and speech.

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

➔SECTION 1. KRS 334.010 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

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

- (1) *"Apprentice" means any applicant in training to become a licensed specialist in hearing instruments;*
- (2) *"Apprentice permit" means a permit issued while the applicant is in training to become a licensed specialist in hearing instruments;*
- (3) *"Board" means the Kentucky Licensing Board for Specialists in Hearing Instruments;*
- (4) *"Client" means the user or purchaser of the hearing instrument;*
- (5) *"License" means a license issued by the board under this chapter to specialists in hearing instruments;*
- (6) *"Over-the-counter hearing aid" means air conduction hearing aids that satisfy the requirements in the Over-the-Counter Hearing Aid Controls, 21 C.F.R. sec. 800.30(c) to (f), and are considered available over the counter pursuant to 21 U.S.C. sec. 360j(q)(1)(A)(v), but do not satisfy the regulatory requirements for prescription hearing aids;*
- (7) *"Practice of fitting hearing instruments" means the measurement of human hearing by means of an audiometer for the purpose of making selections, adaptations, and adjustments of hearing instruments, including both over-the-counter hearing aids and prescription hearing aids. The practice of fitting hearing instruments also includes the making of ear mold impressions and custom earmolds and ordering the use of hearing instruments;*
- (8) *"Practice of selling and fitting hearing instruments" means selling, ordering the use of, and fitting prescription hearing aids and over-the-counter hearing aids, including the measurement of human hearing by means of an audiometer for the purpose of making selections, adaptations, and adjustments of hearing instruments. The practice of selling and fitting hearing instruments also includes the making of ear mold impressions and custom earmolds and ordering the use of hearing instruments;*
- (9) *"Prescription hearing aid" means a Class 1 or Class 2 device as defined in the federal Food, Drug and Cosmetic Act, 21 U.S.C. sec. 321(h), that is not an over-the-counter hearing aid as defined in Over-the-Counter Hearing Aid Controls, 21 C.F.R. sec. 800.30, or a hearing aid that does not satisfy the regulatory requirements for over-the-counter hearing aids;*
- (10) *"Sell" or "sale" means any transfer of title or transfer of the right to use by lease, bailment, or any other means;*
- (11) *"Specialist in hearing instruments" means any individual licensed under this chapter;*
- (12) *"Sponsor" means a licensed specialist in hearing instruments qualified under KRS 334.090(8) who assumes professional responsibility for an apprentice; and*
- (13) *"Used" or "not new," with respect to a hearing instrument, means a hearing instrument that has been the subject of a sale and the title to which was held by the client for a period longer than thirty (30) days.*

➔SECTION 2. KRS 334.200 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *Any person licensed to sell hearing instruments under this chapter shall maintain, for not less than three (3) years in a file under the name of the person to whom a hearing instrument was sold, a true copy of the written agreement, offer to purchase, or receipt given the person pursuant to KRS 334.030.*
- (2) *The servicing, marketing, sale, dispensing, customer support, or distribution of over-the-counter hearing aids, or an equivalent activity, whether through in-person transactions, by mail, or online, shall not cause, require, or otherwise obligate a person providing such services to obtain specialized licensing, certification, or any other state or local sanction unless the requirement is generally applicable to the sale of any product or to all places of business regardless of whether they sell over-the-counter hearing aids. A person licensed under KRS Chapters 334 and 334A may service, market, sell, dispense, provide customer support for, or distribute over-the-counter hearing aids to any person.*
- (3) *Any person licensed under Chapters 334 and 334A to sell hearing aids under this chapter shall abide by the age restriction requirements to sell over-the-counter hearing aids in accordance with the Over-the-Counter Hearing Aid Controls, 21 C.F.R. sec. 800.30(g)(1).*
- (4) *Nothing in this chapter shall apply to the servicing, marketing, sale, dispensing, use, customer support, or distribution of an over-the-counter hearing aid.*

➔SECTION 3. KRS 334A.020 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

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

- (1) *"Assisting in the practice of speech pathology" means the provision of certain specific components of a speech or language service program provided by a speech-language pathology assistant under the supervision and direction of an appropriately qualified supervisor;*
- (2) *"Audiologist" means one who is licensed to practice audiology. An audiologist may describe himself or herself to the public by any title or description of services incorporating the words "audiologist," "audiology," "audiological," "hearing center," "hearing clinic," "hearing clinician," "hearing therapist," "audiometry," "audiometrist," "audiometrics," "otometry," "otometrist," "aural rehabilitationist," or "hearing conservationist";*
- (3) *"Board" means the Kentucky Board of Speech-Language Pathology and Audiology;*
- (4) *"Continuing professional education" in speech-language pathology and audiology consists of planned learning experiences beyond a basic educational program leading to a degree. These experiences are designed to promote knowledge, skills, and attitudes of speech-language pathology and audiology practitioners to enable them to provide professional services in their areas of training that are based on current research and best practices;*
- (5) *"Interim license" means a license issued by the board pursuant to KRS 334A.035 to a person for the purpose of completing the supervised postgraduate professional experience required under that section prior to an application for licensure as a speech-language pathologist or a speech-language pathology assistant;*
- (6) *"Person" means any individual, organization, or corporate body, except that only individuals can be licensed under this chapter;*
- (7) *"Practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, and instruction related to hearing and disorders of hearing for the purpose of modifying communicative disorders involving speech, language, auditory behavior, or other aberrant behavior related to hearing loss; planning, directing, conducting, or participating in identification and hearing conservation programs; and habilitative and rehabilitative programs, including hearing aid recommendations and evaluation, prescribing, ordering the use of, selling and fitting hearing instruments, including the selling and fitting of both prescription hearing aids and over-the-counter hearing aids, auditory training, or speech reading;*
- (8) *"Practice of speech pathology" means the application of principles, methods, and procedures for the measurement, testing, audiometric screening, identification, appraisal, determination of prognosis, evaluation, consultation, remediation, counseling, instruction, and research related to the development and disorders of speech, voice, verbal and written language, cognition/communication, or oral and pharyngeal sensorimotor competencies for the purpose of designing and implementing programs for the amelioration of these disorders and conditions. Any representation to the public by title or by description of services,*

methods, or procedures for the evaluation, counseling, remediation, consultation, measurement, testing, audiometric screening, identification, appraisal, instruction, and research of persons diagnosed with conditions or disorders affecting speech, voice, verbal, and written language, cognition/communication, or oral and pharyngeal sensorimotor competencies shall be considered to be the practice of speech-language pathology;

- (9) *"Speech-language pathologist" means one who practices speech-language pathology. A speech-language pathologist may describe himself or herself to the public by any title or description of services incorporating the words "speech-language pathologist," "speech-language pathology," "speech-language therapy," "speech-language correction," "speech-language correctionist," "speech-language therapist," "speech clinic," "speech clinician," "speech pathologist," "language pathologist," "language pathology," "language therapist," "logopedics," "logopedist," "communicology," "communicologist," "aphasiologist," "voice therapy," "voice therapist," "voice pathology," "voice pathologist," "phoniatrist," "communication disorders," or "verbal therapist";*
- (10) *"Speech-language pathology assistant" means one who assists in the practice of speech-language pathology only under the supervision and direction of an appropriately qualified supervisor and only within the public school system in the Commonwealth. Any speech-language pathology services provided without appropriate supervision or outside the public school system shall be deemed to be the unlicensed practice of speech-language pathology and shall subject the offending party to penalties established in KRS 334A.990;*
- (11) *"Supervisor" means a person who holds a Kentucky license as a speech-language pathologist or who holds Education Professional Standards Board master's level certification as a teacher of exceptional children in the areas of speech and communication disorders as established by administrative regulation; and*
- (12) *"Temporary license" means a license that may be issued by the board administrator pursuant to KRS 334A.181 to any applicant who has met all the requirements for permanent licensure in accordance with that section.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 334A IS CREATED TO READ AS FOLLOWS:

- (1) *If the training, supervision, documentation, and planning are appropriate, the following tasks may be delegated to a speech-language pathology assistant:*
- (a) *Conduct speech-language and hearing screenings without interpretation following specified screening protocols developed by a speech-language pathologist and audiologist, respectively;*
 - (b) *Follow documented treatment plans or protocols as prescribed by the supervisor;*
 - (c) *Document student progress toward meeting established objectives as stated in the treatment plan;*
 - (d) *Provide direct treatment assistance to identified students under the supervision of the supervisor;*
 - (e) *Assist with clerical and other related duties as directed by the supervisor;*
 - (f) *Report to the supervisor about the treatment plan based on a student's performance;*
 - (g) *Schedule activities, prepare charts, records, graphs, or otherwise display data. This shall not include report generation;*
 - (h) *Perform simple checks and maintenance of equipment;*
 - (i) *Participate with the supervisor in research projects, in-service training, and public relations programs;*
 - (j) *Assist in the development and maintenance of an appropriate schedule for service delivery;*
 - (k) *Assist in implementing collaborative activities with other professionals;*
 - (l) *Assist in administering tests for diagnostic evaluations and progress monitoring; and*
 - (m) *Participate in parent conferences, case conferences, or any interdisciplinary team in consultation with, or in the presence of, the supervisor.*
- (2) *The following activities shall be outside the scope of practice of the speech-language pathology assistant:*
- (a) *Performing any activity which violates the code of ethics promulgated by the board in administrative regulation;*
 - (b) *Interpreting test results or performing diagnostic evaluations without supervision;*

- (c) *Conducting client or family counseling without the recommendation, guidance, and approval of the supervisor;*
- (d) *Writing, developing, or modifying a student's individualized treatment plan in any way without the recommendation, guidance, and approval of the supervisor;*
- (e) *Treating students without following the individualized treatment plan prepared by the supervisor or without access to supervision;*
- (f) *Signing any due process document without the cosignature of the supervisor;*
- (g) *Selecting or discharging students;*
- (h) *Disclosing clinical or confidential information, either orally or in writing, to anyone not designated by the supervisor;*
- (i) *Making referrals for additional services; and*
- (j) *Representing himself or herself as something other than a speech-language pathology assistant.*

➔Section 5. KRS 334.040 is amended to read as follows:

- (1) This chapter shall not apply to a person while he *or she* is engaged in the practice of fitting hearing instruments and assistive listening devices if his *or her* practice is part of the academic curriculum of an accredited institution of higher education or part of a program conducted by a public, charitable institution or nonprofit organization, which is primarily supported by voluntary contributions.
- (2) This chapter shall not be construed to prevent any person who is:
 - (a) A medical or osteopathic physician licensed to practice in the Commonwealth of Kentucky from treating or fitting hearing instruments to the human ear, which includes the making of ear molds;~~;~~ or ~~to~~
 - (b) An audiologist holding a certificate of clinical competence in audiology from the American Speech-Language-Hearing Association so long as they do not engage in the sale of hearing instruments.

➔Section 6. KRS 334A.040 is amended to read as follows:

- (1) Nothing in this chapter shall be construed to prevent a qualified person licensed in this state under any other law from engaging in the profession for which the person is licensed.
- (2) Nothing in this chapter shall be construed to prevent qualified hearing aid dispensers from engaging in those practices and procedures used solely for the fitting and selling of hearing aids.
- (3) Nothing in this chapter shall be construed as restricting or preventing activities of a speech-language pathology or audiology nature or the use of the official title of the position for which they were employed on the part of the following persons:
 - (a) Speech-language pathologists or audiologists employed by the federal government, if they are performing such activities solely within the confines or under the jurisdiction of the organization in which they are employed and do not offer to render speech-language pathology or audiology services as defined in ~~subsections (4) and (6) of~~ KRS 334A.020 to the public outside of the institutions or organizations in which they are employed. However, such persons may, without obtaining a license under this chapter, consult or disseminate their research findings and scientific information to other such accredited academic institutions or governmental agencies. They also may offer lectures to the public for a fee, monetary or otherwise, without being licensed under this chapter; or
 - (b) Registered and practical nurses or others trained to perform audiometric testing under the direct supervision of a licensed physician or surgeon.
- (4) Nothing in this chapter shall be construed as restricting the activities and services of a student or speech-language pathology intern pursuing a course of study leading to a degree in speech-language pathology at an accredited or approved college or university or an approved clinical training facility, if these activities and services constitute a part of the planned course of study and if such persons are designated by such title as "speech-language pathology intern," "speech-language pathology trainee," or other such title clearly indicating the training status appropriate to his or her level of training under the supervision of a licensed speech-language pathologist.

- (5) Nothing in this chapter shall be construed as restricting the activities and services of a student or audiology intern pursuing a course of study leading to a degree in audiology at an accredited or approved college or university or an approved clinical training facility, if these activities and services constitute a part of the planned course of study and if such persons are designated by such title as "audiology intern," "audiology trainee," or other such title clearly indicating the training status appropriate to his or her level of training, under supervision of a licensed audiologist.
- (6) Nothing in this chapter shall be construed as restricting a speech-language pathologist or audiologist from another state from offering his or her speech-language pathology or audiology services in this state if the services are performed for no more than five (5) days in any calendar year and if that person meets the qualifications and requirements stated in the section on qualifications, except that such person need not apply for licensure under this chapter.
- (7) This chapter shall not apply to a person while he or she is engaged in the practice of fitting hearing instruments and assistive listening devices if his or her practice is part of the academic curriculum of an accredited institution of higher education or part of a program conducted by a public, charitable institution, or nonprofit organization, which is primarily supported by voluntary contributions.
- (8) This chapter shall not be construed to prevent any person who is a medical or osteopathic physician licensed to practice in the Commonwealth of Kentucky from treating or fitting hearing instruments to the human ear, which includes the making of ear molds~~[, so long as he or she does not engage in the sale of hearing instruments]~~.

Signed by Governor March 22, 2023.

CHAPTER 54

(SB 49)

AN ACT relating to teacher certification and declaring an emergency.

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

➔Section 1. KRS 161.048 is amended to read as follows:

- (1) The General Assembly hereby finds that:
 - (a)
 1. There are persons who have distinguished themselves through a variety of work and educational experiences that could enrich teaching in Kentucky schools;
 2. There are distinguished scholars who wish to become teachers in Kentucky's public schools, but who did not pursue a teacher preparation program;
 3. There are persons who should be recruited to teach in Kentucky's public schools as they have academic majors, strong verbal skills as shown by a verbal ability test, and deep knowledge of content, characteristics that empirical research identifies as important attributes of quality teachers;
 4. There are persons who need to be recruited to teach in Kentucky schools to meet the diverse cultural and educational needs of students; and
 5. There should be alternative procedures to the traditional teacher preparation programs that qualify persons as teachers;
 - (b) There are hereby established alternative certification program options as described in subsections (2) to (10) of this section;
 - (c) It is the intent of the General Assembly that the Education Professional Standards Board inform scholars, persons with exceptional work experience, and persons with diverse backgrounds who have potential as teachers of these options and assist local boards of education in implementing these options and recruitment of individuals who can enhance the education system in Kentucky;

- (d) The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs; and
 - (e) The Education Professional Standards Board shall promulgate administrative regulations establishing standards and procedures for the alternative certification options described in this section.
- (2) Option 1: Certification of a person with exceptional work experience. An individual who has exceptional work experience and has been offered employment in a local school district shall receive a one (1) year provisional certificate with approval by the Education Professional Standards Board of a joint application by the individual and the employing school district under the following conditions:
- (a) The application contains documentation of all education and work experience;
 - (b) The candidate has documented exceptional work experience in the area in which certification is being sought; and
 - (c) The candidate possesses:
 1. A bachelor's degree or a graduate degree;
 2. A minimum cumulative grade point average of two and seventy-five hundredths (2.75) on a four (4) point scale or a minimum grade point average of three (3.0) on a four (4) point scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution; and
 3. An academic major or a passing score on the academic content assessment in the area in which certification is being sought by the applicant as designated by the Education Professional Standards Board.

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

- (3) Option 2: Certification through a local school district training program. A local school district or group of school districts may seek approval for a training program. The state-approved local school district training program is an alternative to the college teacher preparation program as a means of acquiring teacher certification for a teacher at any grade level. The training program may be offered for all teaching certificates approved by the Education Professional Standards Board, including interdisciplinary early childhood education, except for specific certificates for teachers of exceptional children. To participate in a state-approved local school district alternative training program, the candidate shall possess:
- (a) A bachelor's degree or a graduate degree;
 - (b) A minimum cumulative grade point average of two and seventy-five hundredths (2.75) on a four (4) point scale or a minimum grade point average of three (3) on a four (4) point scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution;
 - (c) A passing score on the academic content assessment in the area in which certification is being sought by the applicant as designated by the Education Professional Standards Board. To be eligible to take an academic content assessment, the applicant shall have completed a thirty (30) hour major in the academic content area or five (5) years of experience in the academic content area as approved by the Education Professional Standards Board; and
 - (d) An offer of employment in a school district which has a training program approved by the Education Professional Standards Board.

Upon meeting the participation requirements as established in this subsection, the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. The candidate shall participate in the teacher internship program under KRS 161.030. After successful completion of the internship program, the candidate shall receive a professional certificate and shall be subject to certificate renewal requirements the same as other teachers with a professional certificate.

- (4) Option 3: Certification of a professional from a postsecondary institution: A candidate who possesses the following qualifications may receive a one (1) year provisional certificate for teaching at any level:

- (a) A master's degree or doctoral degree in the academic content area for which certification is sought;
- (b) A minimum of five (5) years of full-time teaching experience, or its equivalent, in the academic content area for which certification is sought in a regionally or nationally accredited institution of higher education; and
- (c) An offer of employment in a school district which has been approved by the Education Professional Standards Board.

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

- (5) Option 4: Certification of an adjunct instructor. A person who has expertise in areas such as art, music, foreign language, drama, science, computer science, and other specialty areas may be employed as an adjunct instructor in a part-time position by a local board of education under KRS 161.046.
- (6) Option 5: Certification of a veteran of the Armed Forces. The Education Professional Standards Board shall issue a statement of eligibility, valid for five (5) years, for teaching at the elementary, secondary, and secondary career technical education levels to a veteran of the Armed Forces who was honorably discharged from active duty as evidenced by Defense Department Form 214 (DD 214) or National Guard Bureau Form 22 or to a member of the Armed Services currently serving with six (6) or more years of honorable service, including Reserves, National Guard, or active duty. The candidate shall possess:
 - (a) A bachelor's degree or graduate degree;
 - (b) A minimum cumulative grade point average of two and seventy-five hundredths (2.75) on a four (4) point scale or a minimum grade point average of three (3) on a four (4) point scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution; and
 - (c) An academic major or a passing score on the academic content assessment in the area in which certification is being sought by the applicant as designated by the Education Professional Standards Board.

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

- (7) Option 6: University alternative program. With approval of the Education Professional Standards Board, a university may provide an alternative program that enrolls students in a postbaccalaureate teacher preparation program concurrently with employment as a teacher in a local school district. A student in the alternative program shall be granted a one (1) year provisional certificate and shall participate in the Kentucky teacher internship program, notwithstanding provisions of KRS 161.030. A student may not participate in the internship program until the student has successfully completed the assessments required by the board. The one (1) year provisional certificate may be renewed **four (4)**~~two (2)~~ additional years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the teacher candidate's successful completion of the program, the internship program requirements, and all academic content assessments in the specific teaching field of the applicant as designated by the Education Professional Standards Board.
- (8) Option 7: Certification of a person in a field other than education to teach in elementary, middle, or secondary programs. This option shall not be limited to teaching in shortage areas. An individual certified under provisions of this subsection shall be issued a one (1) year provisional certificate, renewable for a maximum of **four (4)**~~two (2)~~ additional years with approval of the Education Professional Standards Board.
 - (a) The candidate shall possess:
 1. A bachelor's degree with a declared academic major in the area in which certification is sought or a graduate degree in a field related to the area in which certification is sought;
 2. A minimum cumulative grade point average of two and seventy-five hundredths (2.75) on a four (4) point scale or a minimum grade point average of three (3) on a four (4) point scale on the last

- thirty (30) hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution;
3. A passing score on the GRE or equivalent as designated by the Education Professional Standards Board. A candidate who has a terminal degree shall be exempt from the requirements of this subparagraph; and
 4. A passing score on the academic content assessment in the area in which certification is being sought as designated by the Education Professional Standards Board.
- (b) Prior to receiving the one (1) year provisional certificate or during the first year of the certificate, the teacher shall complete the following:
1. For elementary teaching, the individual shall successfully complete the equivalent of a two hundred forty (240) hour institute, based on six (6) hour days for eight (8) weeks. The providers and the content of the institute shall be approved by the Education Professional Standards Board. The content shall include research-based teaching strategies in reading and math, research on child and adolescent growth, knowledge of individual differences, including teaching exceptional children, and methods of classroom management.
 2. For middle and secondary teaching, the individual shall successfully complete the equivalent of a one hundred eighty (180) hour institute, based on six (6) hour days for six (6) weeks. The providers and the content of the institute shall be approved by the Education Professional Standards Board and shall include research-based teaching strategies, research on child and adolescent growth, knowledge of individual differences, including teaching exceptional children, and methods of classroom management.
- (c) The candidate shall participate in the teacher internship program under KRS 161.030. After successful completion of the internship program, the candidate shall receive a professional certificate and shall be subject to certificate renewal requirements the same as other teachers with a professional certificate.
- (9) Option 8: Certification of a Teach for America participant to teach in elementary, middle, or high schools. Nothing in this subsection shall conflict with the participation criteria of the Teach for America program. An individual certified under this subsection shall be issued a one (1) year provisional certificate.
- (a) The candidate shall possess:
1. An offer of employment from a local school district;
 2. A bachelor's degree;
 3. A successful completion of the summer training institute and ongoing professional development required by Teach for America, including instruction in goal-oriented, standards-based instruction, diagnosing and assessing students, lesson planning and instructional delivery, classroom management, maximizing learning for diverse students, and teaching methodologies; and
 4. A passing score on the academic content assessment in the area in which certification is being sought as designated by the Education Professional Standards Board.
- (b) The provisional certificate granted under paragraph (a) of this subsection may be renewed two (2) times with a recommendation of the superintendent and approval of the Education Professional Standards Board.
- (c) A Teach for America participant who is approved for a second renewal of his or her provisional certificate under paragraph (b) of this subsection may participate in the teacher internship program under KRS 161.030.
- (d) A Teach for America participant shall be issued a professional certificate upon the participant's successful completion of the internship program and assessments relating to teaching of subject matter required by the Education Professional Standards Board under KRS 161.030.
- (e) Notwithstanding any statute or administrative regulation to the contrary, a teacher certified under this subsection shall have ten (10) years from the date that the teacher successfully completed the internship program to complete a master's degree or fifth year program, or the equivalent as specified by the Education Professional Standards Board in administrative regulation.

- (10) Option 9: Expedited certification of a person to teach at any grade level through a cooperative program. With approval of the Education Professional Standards Board, a college or university may partner with a school district to develop an expedited certification program that results in a bachelor's degree and initial certification within three (3) school years.
- (a) The program shall:
1. Include a residency or paraprofessional component which employs the person within the participating district for the duration of the program to gain work experience to supplement the expedited program and reduced coursework;
 2. Utilize experienced teachers employed by the district to provide coaching and to mentor the candidates; and
 3. Be designed to meet the needs of the participating district and may include an emphasis in developing a teacher pipeline for the district's students, improving the numbers of underrepresented populations among the district's workforce, or focusing on increasing the number of teachers with certification areas that are in high demand.
- (b) A school district entering into a cooperative partnership shall ensure the availability of funding for each candidate employed within the district in the residency or paraprofessional program for the duration of the candidate's participation in the program. However, nothing in this subsection shall be interpreted as requiring the district to continue employing the candidate during the program or after the candidate has received initial certification.
- (c) A person who has begun a traditional path or another option for certification shall be eligible to transfer into this option if the person meets the program's requirements.
- (d) If a school district participating in a cooperative partnership determines to end the partnership, the district shall no longer accept new candidates to the program but shall continue the partnership until the district's employed candidates for Option 9 certification complete the program or are no longer employed by the district.
- (11) A public school teacher certified under subsections (2) to (10) of this section shall be placed on the local district salary schedule for the rank corresponding to the degree held by the teacher.
- (12) Subsections (1) to (3) of this section notwithstanding, a candidate who possesses the following qualifications may receive certification for teaching programs for exceptional students:
- (a) An out-of-state license to teach exceptional students;
 - (b) A bachelor's or master's degree in the certification area or closely related area for which certification is sought; and
 - (c) Successful completion of the teacher internship program requirement required under KRS 161.030.

➔Section 2. Any person granted an emergency teaching certificate pursuant to KRS 161.100 by the Education Professional Standards Board during the 2022-2023 school year shall be eligible to renew that emergency certificate for the 2023-2024 school year, notwithstanding any administrative regulation to the contrary.

➔Section 3. Whereas recruiting and retaining certified teachers is crucial to the success, health, and financial well-being of all citizens of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 22, 2023.

CHAPTER 55

(SB 156)

AN ACT relating to a statewide reading research center.

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

➔ Section 1. KRS 164.0207 is amended to read as follows:

- (1) *A statewide reading research center shall be established under this section to support educators in implementing*~~The Collaborative Center for Literacy Development: Early Childhood through Adulthood is created to make available professional development for educators in~~ reliable, replicable evidence-based reading programs, and to promote literacy development, including cooperating with other entities that provide family literacy services. The center shall be responsible for:
- (a) Developing and implementing a clearinghouse for information about programs addressing reading and literacy from early childhood and the elementary grades (P-5) through adult education;
 - (b) Providing advice to the Kentucky Board of Education regarding ~~evidence-based comprehensive reading instruction and in other~~ matters relating to reading;
 - (c) ~~Collaborating with public and private institutions of postsecondary education and adult education providers to provide for teachers and administrators quality preservice and professional development relating to reading diagnostic assessments and intervention and to the essential components of successful reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and the connections between writing and reading acquisition and motivation to read;~~
 - ~~(d)~~ Collaborating with the Kentucky Department of Education to assist districts with students functioning at low levels of reading skills to assess and address identified literacy needs;
 - ~~(d)~~~~(e)~~ Providing *research and data on evidence-based, high-yield instructional practices and coaching strategies*~~professional development and coaching~~ for early childhood educators and classroom teachers, including adult education teachers, implementing selected reliable, replicable evidence-based reading programs~~. The professional development shall utilize technology when appropriate~~;
 - ~~(e)~~~~(f)~~ Developing and implementing a comprehensive research agenda evaluating *early reading models, instructional resources, and evidence-based practices needed to accelerate student performance toward proficiency in reading*~~comprehensive reading programs and reading intervention programs implemented in accordance with KRS 158.792~~;
 - ~~(g)~~ Maintaining a demonstration and training site for early literacy located at each of the public universities;
 - ~~(f)~~~~(h)~~ Assisting middle and high schools in the development of comprehensive adolescent reading plans and maintaining a repository of instructional materials or summary materials that identify comprehension best practices in the teaching of each subject area and a list of classroom-based diagnostic reading comprehension assessments that measure student progress in developing students' reading comprehension skills; and
 - ~~(g)~~~~(i)~~ Evaluating the reading and literacy components of the model adult education programs funded under the adult education and literacy initiative fund created under KRS 151B.409.
- (2) The center shall review national research and disseminate appropriate research abstracts, when appropriate, as well as conduct ongoing research of reading programs throughout the state. Research activities undertaken by the center shall consist of descriptive as well as empirical studies.
- (a) The center may contract for research studies to be conducted on its behalf.
 - (b) The research agenda should, at a minimum, consider the impact of various reading and intervention programs:
 1. In eliminating academic achievement gaps among students with differing characteristics, including subpopulations of students with disabilities, students with low socioeconomic status, students from racial minority groups, students with limited English proficiency, and students of different gender;
 2. In schools with differing characteristics, such as urban versus rural schools, poverty versus nonpoverty schools, schools with strong library media center programs versus schools with weak library media center programs, and schools in different geographic regions of the state;
 3. In terms of their costs and effectiveness; and
 4. In maintaining positive student progress over a sustained period of time.

- (3) *The center, in conjunction with the Kentucky Department of Education, shall establish annual goals and performance objectives related to the functions described in this section.* The center shall submit an annual report of its activities, *the effects of those activities on state performance levels in reading and writing, and the outcomes of all annual goals and performance objectives* to the Kentucky Department of Education~~, the Governor, and the Legislative Research Commission~~ no later than September 1 of each year. *Based on the annual outcomes, the Kentucky Department of Education shall make programming and funding recommendations to the Governor, the Legislative Research Commission, and the Interim Joint Committee on Education by October 1 of each year.*
- (4) *The Kentucky Department of Education shall, through a competitive request for proposals process, select the administrator of the statewide reading research center for approval by the Kentucky Board of Education. The selected administrator shall be contracted for five (5) years, unless funding is not available or the administrator requests to discontinue the contract. For each five (5) year period thereafter, contingent upon funding, the Kentucky Department of Education shall issue a new request for proposals for the administration of the center*~~[With advice from the Department of Education, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Collaborative Center for Literacy Development at a public institution of postsecondary education. The Council on Postsecondary Education shall approve the location. The center, in conjunction with the council, shall establish goals and performance objectives related to the functions described in this section].~~

➔Section 2. KRS 151B.406 is amended to read as follows:

- (1) The Office of Adult Education is created within the Department of Workforce Development in the Education and Labor 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 *statewide reading research center established under Section 1 of this Act*~~[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 Cabinet. The office shall be headed by an executive director appointed by the secretary of the Education and Labor 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 3. KRS 151B.409 is amended to read as follows:

- (1) There is created in the Education and Labor 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 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 ***statewide reading research center established under Section 1 of this Act***~~[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 4. KRS 154A.130 is amended to read as follows:

- (1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.
- (2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.
- (3) Each fiscal year, three million dollars (\$3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:
- (a) To the ***statewide reading research center established under Section 1 of this Act***~~[Collaborative Center for Literacy Development]~~, one million two hundred thousand dollars (\$1,200,000); and
 - (b) To the reading diagnostic and intervention fund, one million eight hundred thousand dollars (\$1,800,000).

- (4) After the allocation of three million dollars (\$3,000,000) to literacy development, as provided in subsection (3) of this section, net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:
- (a) To the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund established in KRS 164.7877:
 - 1. Forty percent (40%) in fiscal year 2003-2004; and
 - 2. Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter; and
 - (b) To the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164:
 - 1. Forty percent (40%) in fiscal year 2003-2004;
 - 2. Forty-five percent (45%) in fiscal year 2004-2005; and
 - 3. Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006 and each fiscal year thereafter.
- (5) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may at any time conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him *or her*. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.
- (6) By no later than December 31 of each year, in an advertisement at least one-fourth (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the following information in every general-circulation daily newspaper published in Kentucky:
- (a) The statements of revenue, expenses, and changes in retained earnings as shown in the most recent annual audit report. It shall be explained that the transfer of dividends is the amount of lottery earnings transferred to the general fund;
 - (b) A statement identifying the auditing firm;
 - (c) A telephone number which citizens may call to obtain a complete copy of the annual audit report; and
 - (d) The name of the president/chief executive officer of the Kentucky Lottery Corporation and a complete list of board members.

The Kentucky Lottery Corporation shall pay for the cost of the advertisement.

➔Section 5. KRS 156.553 is amended to read as follows:

- (1) The teachers' professional growth fund is hereby created to provide teachers with high quality professional development in content knowledge in mathematics, reading, science, language arts, social studies, arts and humanities, practical living, vocational studies, and foreign languages; classroom-based screening, diagnostic, assessment, and intervention strategies; and teaching methodologies, including professional development that may lead to additional certification endorsements or renewal of certification. Based on available funds, student achievement data, and teacher data, the Kentucky Board of Education shall annually determine the priority for content emphasis based on the greatest needs.
- (2) (a) The fund may provide moneys to teachers for:

1. Tuition reimbursement for successful completion of college or university level courses, including **online**~~[on-line]~~ courses and seminars, approved for this purpose by the Education Professional Standards Board;
 2. Stipends for participation in and successful completion of:
 - a. College or university courses, including **online**~~[on-line]~~ courses and seminars, approved for this purpose by the Education Professional Standards Board;
 - b. Teacher institutes developed for core content instructors by the Department of Education in compliance with KRS 156.095; and
 - c. Other professional development programs approved by the Kentucky Department of Education, including professional development for teachers participating in grants awarded by the Middle School Mathematics and Science Scholars Program established under KRS 158.848;
 3. Reimbursement for the purchase of materials required for professional development programs; and
 4. Reimbursement for other approved professional development activities throughout the school year, including reimbursement for:
 - a. Travel to and from professional development workshops; and
 - b. Travel to and from other schools for the observation of, and consultation with, peer mentors; or
- (b) The fund may be used to provide grants to local school districts to support staff participation in specific, statewide initiatives for the professional development of teachers and administrators in specific content areas as established by the Kentucky Department of Education and the Kentucky Board of Education under the provisions of subsections (4), (5), and (6) of this section and referenced in KRS 158.842.
- (c) The fund may be used to provide grants to colleges and universities to plan and develop statewide professional development institutes and other professional development services.
- (d) The fund may be used to provide grants to local school districts, to colleges and universities, or other entities to assist the Kentucky Department of Education in evaluating costs and the effectiveness of activities and initiatives established under this section.
- (3) The Education Professional Standards Board shall determine the college and university courses, including **online**~~[on-line]~~ courses and seminars, for which teachers may receive reimbursement from the fund.
- (4) The Department of Education shall:
- (a) Administer the fund. In order to process reimbursements to teachers promptly, the reimbursements shall not be subject to KRS 45A.690 to 45A.725;
 - (b) Determine the professional development programs for which teachers may receive reimbursement, or districts or colleges and universities may receive grants, from the fund;
 - (c) Determine the level of stipend or reimbursement, subject to the availability of appropriated funds, for particular courses and programs, under subsection (2) of this section; and
 - (d) Provide an accounting of fund expenditures and results of the use of the funds for each biennium to the Interim Joint Committee on Education by November 1 of each odd-numbered year.
- (5) The professional development programs approved by the Department of Education for which teachers may receive support from the fund shall:
- (a) Focus on improving the content knowledge of teachers;
 - (b) Provide training in the use of research-based and developmentally appropriate classroom-based screening, diagnostic, assessment, and intervention strategies;
 - (c) Provide instruction on teaching methods to effectively impart content knowledge to all students;
 - (d) Include intensive training institutes and workshops during the summer;

- (e) Provide programs for the ongoing support of teacher participants throughout the year, which may include:
 - 1. A peer coaching or mentoring, and assessment program; and
 - 2. Planned activities, including:
 - a. Follow-up workshops; and
 - b. Support networks of teachers of the core disciplines using technologies, including but not limited to telephone, video, and ~~online~~~~[on-line]~~ computer networks;
 - (f) Provide teacher participants with professional development credit toward renewal of certification under the provisions of KRS 161.095, relating to continuing education for teachers; and
 - (g) Provide teacher participants with the opportunity to obtain certificate endorsements or extensions in critical shortage areas, with priority given to mathematics and science through 2016, and in core content areas to their existing certifications through the TC-HQ process, established by the Education Professional Standards Board to meet the requirements of the No Child Left Behind Act of 2001, 20 U.S.C. sec. 6301 et seq.
- (6) The Kentucky Board of Education shall specify through promulgation of administrative regulations:
- (a) The application and approval process for receipt of funds;
 - (b) The requirements and process for the disbursement of funds; and
 - (c) The number of each kind of approved course for which applicants may receive funds.
- (7) Notwithstanding any other provisions to the contrary, a local school board may advance the funds necessary for its teachers to participate in a college course or professional development seminar or activity approved by the Kentucky Department of Education and the Education Professional Standards Board under provisions of this section and receive reimbursement from the department at the conclusion of the activity or course by the teacher. If funds are advanced for the benefit of a teacher under this subsection, but the teacher does not fulfill his or her obligation, the teacher shall reimburse the school district for the funds expended by the district on the teacher's behalf.
- (8) Notwithstanding the provisions of KRS 45.229, unexpended funds in the teachers' professional growth fund in the 2000-2001 fiscal year or in any subsequent fiscal year shall not lapse but shall carry forward to the next fiscal year and shall be used for the purposes established in subsections (1) and (2) of this section.
- (9) Notwithstanding any provisions of this section to the contrary, beginning June 1, 2006, through the 2009-2010 school year, priority for the use of funds from the teachers' professional growth fund shall be used to train and support teams of teachers from all school levels to be trained as reading coaches and mentors or as mathematics coaches and mentors in statewide institutes referenced in KRS 158.840 and 158.842, and for selected teachers to be highly trained in providing diagnostic assessment and intervention services for students in the primary program struggling with mathematics.
- (a) The design of the statewide mathematics institutes to train mathematics coaches and mentors shall be developed by the Committee for Mathematics Achievement established in KRS 158.842. The committee shall provide recommendations to the Kentucky Department of Education and the Kentucky Board of Education in the preparation of administrative regulations that may be promulgated by the board to implement the provisions of this subsection relating to mathematics.
 - (b) The design of the professional development program to provide highly trained mathematics intervention teachers in the primary program shall be developed by the Center for Mathematics in collaboration with public and private institutions of postsecondary education.
 - (c) The development of the statewide program to train reading coaches and mentors shall be coordinated by the Kentucky Department of Education with recommendations from the *statewide reading research center established under Section 1 of this Act*~~[Collaborative Center for Literacy Development, established in KRS 164.0207,]~~ and the reading steering committee established in KRS 158.794. The design of the program shall reflect a consensus of the agencies involved in the development of the program. The training program for reading coaches and mentors shall complement other statewide reading initiatives, funded with state and federal funds, and shall give priority to teachers in grades four (4) through twelve (12). The program shall be implemented no later than June 1, 2006. The board shall

promulgate administrative regulations required to implement the provisions of this subsection relating to reading.

- (10) Notwithstanding any provision of this section to the contrary, beginning June 1, 2010, through the 2015-2016 school year, priority for the use of funds from the teachers' professional growth fund shall be for the purpose of increasing the number of certified teachers with extensions or endorsements in mathematics and science as described in subsection (5)(g) of this section.

➔Section 6. KRS 158.305 is amended to read as follows:

- (1) As used in this section:

- (a) "Aphasia" means a condition characterized by either partial or total loss of the ability to communicate verbally or through written words. A person with aphasia may have difficulty speaking, reading, writing, recognizing the names of objects, or understanding what other people have said. The condition may be temporary or permanent and does not include speech problems caused by loss of muscle control;
- (b) "Dyscalculia" means the inability to understand the meaning of numbers, the basic operations of addition and subtraction, the complex operations of multiplication and division, or to apply math principles to solve practical or abstract problems;
- (c) "Dysgraphia" means difficulty in automatically remembering and mastering the sequence of muscle motor movements needed to accurately write letters or numbers;
- (d) "Dyslexia" has the same meaning as in KRS 158.307;
- (e) "Enrichment program" means accelerated intervention within the school day or outside of the school day or school calendar led by individuals most qualified to provide the intervention that includes evidence-based reading instructional programming related to reading instruction in the areas of phonemic awareness, phonics, fluency, vocabulary, and comprehension, and other instructional strategies aligned to reading and writing standards required by KRS 158.6453 and outlined in administrative regulation promulgated by the Kentucky Board of Education;
- (f) "Evidence-based" has the same meaning as in 20 U.S.C. sec. 7801(21);
- (g) "Phonemic awareness" has the same meaning as in KRS 158.307;
- (h) "Reading diagnostic assessment" has the same meaning as in KRS 158.792;
- (i) "Reading improvement plan" means an accelerated intervention plan for a student in kindergarten through grade four (4) that is developed to increase a student's rate of progress toward proficient performance in reading that is identified as necessary based on the student's results on an approved reading diagnostic assessment. This plan should be developed in collaboration and accordance with any existing program services plan, individualized education program, or Section 504 Plan unless the program services plan, individualized education program, or Section 504 Plan already addresses improving reading;
- (j) "Reading improvement team" means a team that develops and oversees the progress of a reading improvement plan and includes:
 - 1. The parent or guardian of the student that is the subject of the reading improvement plan;
 - 2. No less than one (1) regular education teacher of the student to provide information about the general curriculum for same-aged peers;
 - 3. A representative of the local education agency who is knowledgeable about the reading curriculum and the availability of the evidence-based literacy resources of the local education agency; and
 - 4. Any specialized certified school employees for students receiving language instruction educational programming or special education services; and
- (k) "Universal screener" means a process of providing a brief assessment to all students within a grade level to assess the students' performance on the essential components of reading.

- (2) Notwithstanding any other statute or administrative regulation to the contrary, the Kentucky Board of Education shall promulgate administrative regulations to further define a multitiered system of supports for

district-wide use of a system for students in kindergarten through grade three (3), that includes a tiered continuum of interventions with varying levels of intensity and duration and which connects general, compensatory, and special education programs to provide interventions implemented with fidelity to evidence-based research and matched to individual student strengths and needs. At a minimum, evidence of implementation shall be submitted by the district to the department by October 1 of each year and shall include but not be limited to the activities required under KRS 158.649.

- (3) The Department of Education shall provide technical assistance and training, if requested by a local district, to assist in the implementation of the district-wide, multitiered system of supports as a means to identify and assist any student experiencing difficulty in reading, writing, mathematics, or behavior and to determine appropriate instructional modifications needed by advanced learners to make continuous progress.
- (4) The technical assistance and training shall be designed to improve:
 - (a) The use of specific screening processes and programs to identify student strengths and needs;
 - (b) The use of screening data for designing instructional interventions;
 - (c) The use of multisensory instructional strategies and other interventions validated for effectiveness by evidence-based research;
 - (d) Progress monitoring of student performance; and
 - (e) Accelerated, intensive, direct instruction that addresses students' individual differences, including advanced learners, and enables students that are experiencing difficulty to catch up with typically performing peers.
- (5) (a) By January 1, 2023, each superintendent or public charter school board of directors shall select:
 1. At least one (1) universal screener for reading that is determined by the department to be reliable and valid to be administered to all students in kindergarten through grade three (3); and
 2. At least one (1) reading diagnostic assessment for reading that is determined by the department to be reliable and valid to be administered as part of a multitiered system of supports for students in kindergarten through grade three (3).

(b) Notwithstanding KRS 158.6453(19) and 160.345, each superintendent or public charter school board ~~shall~~~~may~~ adopt a common comprehensive reading program that is determined by the department to be reliable, valid, and aligned to reading and writing standards required by KRS 158.6453 and outlined in administrative regulation promulgated by the Kentucky Board of Education for kindergarten through grade three (3) for all schools or a subset of schools, with consultation of all affected elementary school councils.

(c) All teachers of students in kindergarten through grade three (3), including public charter school teachers, shall be trained on any reading diagnostic assessment and universal screener selected by the superintendent or public charter school board prior to administration of the assessment. The training shall address:

 1. How to properly administer the reading diagnostic assessment;
 2. How to interpret the results of the reading diagnostic assessment to identify students needing interventions;
 3. How to use the assessment results to design instruction and interventions;
 4. The use of the assessment to monitor the progress of student performance; and
 5. The use of accelerated, intensive, and direct instruction that addresses students' individual differences and enables students to achieve proficiency in reading, including but not limited to daily, one-on-one instruction.
- (6) Beginning with the 2023-2024 school year, a universal screener determined by the Department of Education to be reliable and valid shall be:
 - (a) Given in the first forty-five (45) days of the school year for all kindergarten students at a public school or public charter school; and
 - (b) Given in the first thirty (30) days of the school year for grades one (1) through three (3) at a public school or public charter school.

- (7) A reading improvement plan shall be developed and implemented by a reading improvement team for any student in kindergarten through grade three (3) identified as needing accelerated interventions to progress toward proficient performance in reading. The reading improvement plan shall require:
- (a) Intensive intervention that includes effective instructional strategies and appropriate instructional materials necessary to help the student make accelerated progress toward proficient performance in reading and become ready for the next grade, including but not limited to daily, one-on-one instruction with students the most in need provided by certified teachers specifically trained to provide one-on-one instruction;
 - (b) A school to provide a written quarterly progress report containing the information required by paragraph (a) of this subsection to a parent or guardian of any student subject to a reading improvement plan. The written quarterly progress report for the reading improvement plan may be included in the school's existing quarterly progress report; and
 - (c) Individual placement decisions for children who are eligible for special education and related services to be determined by the appropriate admissions and release committee in accordance with administrative regulations promulgated by the Kentucky Board of Education.
- (8) Beginning in the 2023-2024 school year, if a student's rate of progress toward proficient performance in reading needs accelerated interventions as demonstrated by the results of an approved reading diagnostic assessment, the local school district shall provide:
- (a) Enrichment programs through grade three (3) using evidence-based reading instruction and other strategies;
 - (b) Intensive instructional services, progress monitoring measures, and supports to students through grade three (3); and
 - (c) Parents and legal guardians of students identified for accelerated interventions in reading in kindergarten through grade three (3) with a "Read at Home" plan, including information on how to participate in regular parent-guided home reading.
- (9) Beginning in the 2024-2025 school year, if a student does not score in the proficient performance level or higher in reading, as defined in KRS 158.791(2), on the state annually required grade three (3) assessment, the local school district shall provide:
- (a)
 1. Enrichment programs in grade four (4) using evidence-based reading instruction and other strategies; or
 2. Intensive instructional services, progress monitoring measures, and supports to students in grade four (4); and
 - (b) Written notification of the interventions and supports described in paragraph (a) of this subsection to the parent or legal guardian of the student, including a description of proposed interventions and supports to be provided.
- (10) By September 1, 2023, if funds are appropriated, the department shall establish required teacher academies or coaching models for teachers of students in prekindergarten through grade three (3). The teacher academies or coaching models shall be related to evidence-based practices in instruction, instructional materials, and assessment in reading.
- (11) The department shall develop and maintain a ~~web-based~~ **web-based** resource providing teachers access to:
- (a) Information on the use of specific screening processes and programs to identify student strengths and needs, including those for advanced learners;
 - (b) Current, evidence-based research and age-appropriate instructional tools that may be used for substantial, steady improvement in:
 1. Reading when a student is experiencing difficulty with phonemic awareness, phonics, vocabulary, fluency, general reading comprehension, or reading in specific content areas, or is exhibiting characteristics of dyslexia, aphasia, or other reading difficulties;
 2. Writing when a student is experiencing difficulty with consistently producing letters or numbers with accuracy or is exhibiting characteristics of dysgraphia;

3. Mathematics when a student is experiencing difficulty with basic math facts, calculations, or application through problem solving, or is exhibiting characteristics of dyscalculia or other mathematical difficulties; or
 4. Behavior when a student is exhibiting behaviors that interfere with his or her learning or the learning of other students; and
- (c) Current, evidence-based research and age-appropriate instructional tools that may be used for continuous progress of advanced learners.
- (12) The department shall encourage districts to utilize both state and federal funds as appropriate to implement a district-wide multitiered system of supports.
- (13) The department is encouraged to coordinate technical assistance and training on current best practice interventions with state postsecondary education institutions.
- (14) The department shall collaborate with the *statewide reading research center established under Section 1 of this Act* [~~Kentucky Collaborative Center for Literacy Development~~], the Kentucky Center for Mathematics, the Kentucky Center for Instructional Discipline, the Education Professional Standards Board, the Council on Postsecondary Education, postsecondary teacher education programs, and other agencies and organizations as deemed appropriate to ensure that teachers are prepared to utilize evidence-based interventions in reading, writing, mathematics, and behavior.
- (15) In compliance with 20 U.S.C. sec. 1414(a)(1)(E), screening of a student to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services and nothing in this section shall limit a school district from completing an initial evaluation of a student suspected of having a disability.

➔Section 7. 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 any print, nonprint, or electronic medium of reading instruction designed to assist students. For students in kindergarten through grade three (3), program instructional resources shall include instruction in five (5) key areas: phonemic awareness, phonics, fluency, vocabulary, and comprehension;
 - (b) "Reading diagnostic assessment" means an assessment that measures a student's skills against established performance levels in essential components of reading and identifies students that require intervention in at least one (1) of those components to accelerate the student's progress toward proficient performance in reading;
 - (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 evidence-based, reliable, and replicable; and shall be based on the ongoing assessment of individual student needs; and
 - (d) "Reliable, replicable evidence" 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 kindergarten through grade three (3) and to assist schools in employing reading interventionists who specialize in providing those services. 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 and reading interventionists in the implementation of reliable, replicable evidence-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 Department of Education that shall include but not be limited to a school selection process with a focus on those with the most need, professional learning supports in literacy, and early reading instruction 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 reading and literacy 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. An evidence-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 kindergarten through grade three (3) 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.
- (c) The board shall not restrict how a grant applicant utilizes grant funds as it relates to the applicant's use of funds for professional development, resources, tools, employment of reading interventionists, and other expenses authorized by this section. The grant applicant shall have discretion in allocating grant funds for purposes authorized by this section; however, the board may consider the effectiveness of those uses in reviewing the application.
- (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, evidence-based comprehensive reading programs, diagnostic tools for pre- and post-assessment, and intervention programs, from the ***statewide reading research center established under Section 1 of this Act***~~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 November 1 of each year outlining the use of grant funds. The annual report for an odd-numbered year shall include an estimate of the cost to expand the reading diagnostic and intervention fund.
- (7) The Department of Education shall report program data to an external evaluator for analysis of the program's success in meeting the goal of increasing early literacy student outcomes.

➔Section 8. KRS 158.840 is amended to read as follows:

- (1) The General Assembly hereby finds that reading and mathematics proficiency are gateway skills necessary for all Kentucky students to achieve the academic goals established in KRS 158.6451. It is the General Assembly's intent that:
 - (a) All students in kindergarten through grade three (3) having difficulty in reading and mathematics receive early diagnosis and intervention services from highly trained teachers;
 - (b) All students demonstrate proficiency in reading and mathematics as they progress through the relevant curricula and complete each assessment level required by the Kentucky Board of Education for the state assessment program established under KRS 158.6453 and in compliance with the requirements of the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor; and
 - (c) Students who are struggling in reading and mathematics or are not at the proficient level on statewide assessments be provided evidence-based and developmentally appropriate diagnostic and intervention services, and instructional modifications necessary to learn.

The General Assembly, the Kentucky Board of Education, the Kentucky Department of Education, the Council on Postsecondary Education, colleges and universities, local boards of education, school administrators, school councils, teachers, parents, and other educational entities, such as the Education Professional Standards Board, P-16 councils, the *statewide reading research center established under Section 1 of this Act* [~~Collaborative Center for Literacy Development~~], and the Center for Middle School Achievement must collaborate if the intentions specified in this subsection are to be met. Intensive focus on student achievement in reading and mathematics does not negate the responsibility of any entity to help students obtain proficiency in other core curriculum content areas.

- (2) The General Assembly's role is to set policies that address the achievement levels of all students and provide resources for the professional growth of teachers and administrators, assessing students' academic achievement, including diagnostic assessment and instructional interventions, technology innovations, targeted reading and mathematics statewide initiatives, research and the distribution of research findings, services for students beyond the regular school day, and other services needed to help struggling learners.
- (3) The Kentucky Board of Education shall regularly review and modify, when appropriate, its statewide assessment policies and practices to enable local school districts and schools to carry out the provisions of the statewide assessment and accountability system, required under KRS 158.6453 to improve student achievement in mathematics and reading.
- (4) The Kentucky Department of Education shall:
 - (a) Provide assistance to schools and teachers, including publicizing professional development opportunities, methods of measuring effective professional development, the availability of high quality instructional materials, and developmentally appropriate screening and diagnostic assessments of student competency in mathematics and reading. The department shall provide access to samples of units of study, annotated student work, diagnostic instruments, and research findings, and give guidance on parental engagement;
 - (b) Work with state and national educators and subject-matter experts to identify student reading skills in each subject area that align with the state content standards adopted under KRS 158.6453 and identify teaching strategies in each subject area that can be used explicitly to develop the identified reading skills under this paragraph;
 - (c) Encourage the development of comprehensive middle and high school adolescent reading plans to be incorporated into the curricula of each subject area to improve the reading comprehension of all students;
 - (d) Conduct an annual review of the state grant programs it manages and make recommendations, when needed, to the Interim Joint Committee on Education for changes to statutory requirements that are necessary to gain a greater return on investment;

- (e) Provide administrative support and oversight to programs to train classroom coaches and mentors to help teachers with reading and mathematics instruction; and
 - (f) Require no reporting of instructional plans, formative assessment results, staff effectiveness processes, or interventions implemented in the classroom, except for:
 - 1. Interventions implemented under KRS 158.305(2);
 - 2. Funds provided under KRS 158.792 or 158.844; or
 - 3. Schools that are identified for comprehensive support and improvement and fail to exit comprehensive support and improvement status after three (3) consecutive years of implementing the turnaround intervention process as described in KRS 160.346.
- (5) The Council on Postsecondary Education, in cooperation with the Education Professional Standards Board, shall exercise its duties and functions under KRS 164.020 to ensure that teacher education programs are fulfilling the needs of Kentucky for highly skilled teachers. The council shall:
- (a) Coordinate the federal and state grant programs it administers with other statewide initiatives relating to improving student achievement in reading and mathematics to avoid duplication of effort and to make efficient use of resources;
 - (b) Submit a report to the Interim Joint Committee on Education no later than November 1 of each year summarizing the compliance of each teacher preparation program for interdisciplinary early childhood education or elementary regular education to the instructional requirements set forth in KRS 164.306(1); and
 - (c) Regularly report program data to an external evaluator for an analysis of the progress of teacher preparation programs for interdisciplinary early childhood education and elementary regular education to increase the success of new teacher candidates in demonstrating reading instruction knowledge and skills.
- (6) The Education Professional Standards Board shall exercise its duties and responsibilities under KRS 161.030 and 161.048 to ensure highly qualified teachers.
- (7) Colleges and universities shall:
- (a) Utilize institution-wide resources to work with elementary and secondary educators and other entities to align curriculum content to ensure that students who achieve proficiency on standards established at the prekindergarten through secondary levels will require no remediation to successfully enter a postsecondary education program;
 - (b) Provide quality undergraduate teacher preparation programs to ensure that those preparing to teach reading or mathematics at all grade levels have the necessary content knowledge, assessment and diagnostic skills, and teaching methodologies and that teachers in all subject areas have the requisite skills for helping students at all grade levels develop critical strategies and skills for reading and comprehending subject matter;
 - (c) Deliver appropriate continuing education for teachers in reading and mathematics through institutes, graduate level courses, and other professional development activities that support a statewide agenda for improving student achievement in reading and mathematics;
 - (d) Conduct or assist with research on best practices in assessment, intervention strategies, teaching methodologies, costs and effectiveness of instructional models, and other factors as appropriate to reading and mathematics;
 - (e) Provide staff to consult and provide technical assistance to teachers, staff, and administrators at elementary, middle, and secondary school sites;
 - (f) Assume active roles in the statewide initiatives referenced in KRS 156.553 and 158.842; and
 - (g) Develop written procedures for measuring the effectiveness of activities outlined in paragraphs (a) to (e) of this subsection.
- (8) School councils at all school levels are encouraged to identify and allocate resources to qualified teachers to become coaches or mentors in mathematics or coaches or mentors in reading with a focus on improving student achievement in their respective schools.

- (9) Local school boards and superintendents shall provide local resources, whenever possible, to supplement or match state and federal resources to support teachers, school administrators, and school councils in helping students achieve proficiency in reading and mathematics.
- (10) Local school superintendents shall provide leadership and resources to the principals of all schools to facilitate curriculum alignment, communications, and technical support among schools to ensure that students are academically prepared to move to the next level of schooling.

→Section 9. KRS 164.035 is amended to read as follows:

The Council on Postsecondary Education, in consultation with the Office of Adult Education and the *statewide reading research center established under Section 1 of this Act* ~~Collaborative Center for Literacy Development: Early Childhood through Adulthood~~, shall assess the need for technical assistance, training, and other support to assist in the development of adult education and workforce development that support the state strategic agenda and that include a comprehensive coordinated approach to education and training services. The council shall promote the involvement of universities; colleges; technical institutions; elementary and secondary educational agencies; labor, business, and industry representatives; community-based organizations; citizens' groups; and other policymakers in the development of the regional strategies.

→Section 10. The Kentucky Department of Education shall, through a competitive bidding process, select the administrator of the statewide reading research center to be established under Section 1 of this Act for approval by the Kentucky Board of Education no later than July 1, 2024. The selected administrator shall be contracted for five years beginning July 1, 2024, as set forth in subsection (4) of Section 1 of this Act, unless funding is not available.

→Section 11. Sections 1 to 9 of this Act take effect July 1, 2024.

Signed by Governor March 22, 2023.

CHAPTER 56

(SB 25)

AN ACT relating to postsecondary readiness indicators and declaring an emergency.

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

→Section 1. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

- (1) (a) The Kentucky Board of Education shall create an accountability system to classify districts and schools in accordance with the academic standards and student assessment program developed pursuant to KRS 158.6453.
- (b) The accountability system shall include an annual meaningful differentiation of all public schools in the state using multiple measures that describe the overall performance of each district, school, and student subgroup. Performance shall be based on a combination of academic and school quality indicators and measures, hereinafter called "state indicators." The state indicators shall exclusively include:
1. Student assessment results;
 2. Progress toward achieving English proficiency by limited English proficiency students;
 3. Quality of school climate and safety;
 4. High school graduation rates;
 5. Postsecondary readiness for each high school student, which shall be included as an academic indicator, and shall be measured by one (1) of the following:
 - a. Meeting or exceeding a college readiness benchmark score on the college admissions examination used as the statewide assessment in KRS 158.6453(5)(b)5. or a college placement examination approved by the Council on Postsecondary Education. The college

- readiness benchmark score shall be established by the Council on Postsecondary Education;
- b. Achieving ***a minimum of*** three (3) hours of ~~*dual*~~^{*college*} credit ~~or postsecondary articulated credit~~ by completing a course approved by the Kentucky Board of Education ***or qualifying for a minimum of three (3) hours of postsecondary articulated credit associated with a statewide articulation agreement;***
 - c. Achieving a benchmark score on an Advanced Placement, International Baccalaureate, Cambridge Advanced International, or other nationally recognized exam approved by the Kentucky Board of Education that generally qualifies the student for three (3) or more hours of college credit;
 - d. Completing a required number of hours or achieving a benchmark within an apprenticeship, cooperative, or internship that is:
 - i. Not required to be offered as a high school course or during the regular school day, week, or year;*
 - ii. Aligned with a credential or associate degree; and*
 - iii. Approved by the Kentucky Board of Education after receiving input from the Local Superintendents Advisory Council; or*
 - e. Achieving any industry-recognized certifications, licensures, or credentials, with more weight in accountability for industry-recognized certifications, licensures, or credentials identified as high demand in accordance with the process described in paragraph (e) of this subsection. Eligible industry-recognized certifications, licensures, or credentials shall not be limited to those earned in conjunction with a minimum sequence of courses. Each high school shall publicly report the credits, hours, and credentials on an annual basis; and
6. Any other factor mandated by the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor.
 - (c) 1. Beginning with data from the 2020-2021 and 2021-2022 school years, the accountability system performance for each district, school, and student subgroup determined by the state indicators shall be based on a combination of annual performance, hereinafter called "status," and improvement over time, hereinafter called "change."
 2. Status and change shall receive equal weight in determining overall performance. For all students as a group and separately for individual subgroups, status shall be determined, beginning with the data from the 2020-2021 academic year, by using the current year performance and change shall be determined, beginning with the data from the 2021-2022 academic year, by using the difference in performance from the prior to current year, except change shall be based on the difference in performance for the prior three (3) years for the purpose of determining the lowest-performing five percent (5%) of schools under KRS 160.346(2) and (3).
 3. For each state indicator, there shall be five (5) status levels ranging from very high to very low and five (5) change levels ranging from increased significantly to declined significantly.
 4. The percentile cut scores for status and change levels shall be based on distribution and shall be approved by the Kentucky Department of Education and the Local Superintendents Advisory Council. The cut scores shall remain in place for at least six (6) years unless existing cut scores no longer support meaningful differentiation of schools as required by the federal Every Student Succeeds Act of 2015, Pub. L. No. 114-95, or its successor.
 - (d) Beginning in the fall of 2022, the Kentucky Department of Education shall develop an online display of the accountability system results hereinafter called a "dashboard." A color-coded performance level for each state indicator shall be displayed in a straightforward manner on the dashboard for overall performance, status, and change by district, school, and individual subgroups. Overall performance shall aggregate all available data for the state indicators.
 - (e) Based on data from the Kentucky Center for Education and Workforce Statistics, each local workforce investment board, in conjunction with local economic development organizations from its state regional sector, shall annually compile a list of industry-recognized certifications, licensures, and credentials specific to the state and regional workforce area, rank them by demand for the state and regional area,

and provide the list to the Kentucky Workforce Innovation Board. The Kentucky Workforce Innovation Board, in conjunction with the Kentucky Department of Education, may revise the lists before the Kentucky Department of Education disseminates the lists to all school districts to be used as postsecondary readiness indicators.

- (f)
 1. The Kentucky Department of Education shall pay for the cost of an assessment taken by a high school student for attaining an industry-recognized certification, credential, or licensure if the student consecutively completes at least two (2) related career pathway courses approved by the department prior to taking the assessment.
 2. If a high school student has not completed the two (2) course requirement described in subparagraph 1. of this paragraph but meets performance-based experience eligibility and passes an assessment, the department shall provide a weighted reimbursement amount to the school district for the cost of the assessment based on the level of demand of the certificate, credential, or license earned. The Kentucky Board of Education shall promulgate regulations establishing the performance-based experience eligibility requirements and weighted reimbursement amounts.
- (g) Prior to promulgating administrative regulations to revise the accountability system, the board shall seek advice from the School Curriculum, Assessment, and Accountability Council; the Office of Education Accountability; the Education Assessment and Accountability Review Subcommittee; and the department's technical advisory committee.
- (2) A student's test scores shall be counted in the accountability measure of:
 - (a)
 1. The school in which the student is currently enrolled if the student has been enrolled in that school for at least a full academic year as defined by the Kentucky Board of Education; or
 2. The school in which the student was previously enrolled if the student was enrolled in that school for at least a full academic year as defined by the Kentucky Board of Education; and
 - (b) The school district if the student is enrolled in the district for at least a full academic year as defined by the Kentucky Board of Education; and
 - (c) The state if the student is enrolled in a Kentucky public school prior to the beginning of the statewide testing period.
- (3) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the department's technical advisory committee, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish more rigorous action, intervention, and appropriate consequences for schools that fail to exit comprehensive support and improvement status described in KRS 160.346. The consequences shall be designed to improve the academic performance and learning environment of identified schools and may include but not be limited to:
 - (a) A review and audit process to determine the appropriateness of a school's or district's classification and to recommend needed assistance;
 - (b) School and district improvement plans;
 - (c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;
 - (d) Education assistance from highly skilled certified staff; and
 - (e) Observation of school personnel.
- (4) All students who drop out of school during a school year shall be included in a school's annual average school graduation rate calculation.
- (5) After receiving the advice of the Education Assessment and Accountability Review Subcommittee, the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the department's technical advisory committee, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a three (3) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when one (1) or more schools in the district fail

to exit comprehensive support and improvement status after three (3) consecutive years of implementing the turnaround intervention process described in KRS 160.346.

- (6) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the department's technical advisory committee, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a process whereby a school or school district shall be allowed to appeal any performance judgment made by the department under this section or KRS 160.346 of a principal, superintendent, school, or school district which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the three (3) year assessment period which are beyond the control of the appellant school or school district.
- (7) Advice and recommendations provided by the department's technical advisory committee shall be summarized and reported by the department by July 1 and December 1 of each year to the Office of Education Accountability. The report shall include:
- (a) Advice and recommendations provided by panel members relating to:
1. Development and modification to the assessment and accountability system;
 2. The development of administrative regulations governing the assessment and accountability system;
 3. The setting of standards used in the assessment and accountability system; and
 4. KRS 158.6453, 158.6455, 158.782, or 158.860; and
- (b) Any documentation used by the panel in support of the panel's advice and recommendations.

Upon receipt of the report, the Office of Education Accountability shall forward the report to the Education Assessment and Accountability Review Subcommittee and the co-chairs of the Interim Joint Committee on Education.

➔Section 2. Whereas it is the intent of the General Assembly that the public education system provides and values educational opportunities that reflect the needs of Kentucky's students and workforce, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor March 22, 2023.

CHAPTER 57

(SB 135)

AN ACT relating to the Cabinet for Health and Family Services.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *The Cabinet for Health and Family Services shall, in cooperation with maternal and infant health and mental health professional societies:*
- (a) *Develop written information on perinatal mental health disorders and make it available on its website for access by birthing centers, hospitals that provide labor and delivery services, and the public; and*
- (b) *Provide access on its website to one (1) or more evidence-based clinical assessment tools designed to detect the symptoms of perinatal mental health disorders for use by health care providers providing perinatal care and health care providers providing pediatric infant care.*

- (2) *The Cabinet for Health and Family Services shall establish a collaborative panel composed of representatives of health care facilities that provide obstetrical and newborn care, maternal and infant health care providers, maternal mental health providers, representatives of university mental health training programs, maternal health advocates, women with experience living with perinatal mental health disorders, and other stakeholders for the purposes of:*
- (a) *Improving the quality of prevention and treatment of perinatal mental health disorders;*
 - (b) *Promoting the implementation of evidence-based bundles of care to improve patient safety;*
 - (c) *Identifying unaddressed gaps in service related to perinatal mental health disorders that are linked to geographic, racial, and ethnic inequalities; lack of screenings; and insufficient access to treatments, professionals, or support groups; and*
 - (d) *Exploring grant and other funding opportunities and making recommendations for funding allocations to address the need for services and supports for perinatal mental health disorders.*
- (3) *The objectives set forth in subsection (2)(a) to (d) of this section may be achieved by incorporating the panel's findings and recommendations into other programs administered by the Cabinet for Health and Family Services that are intended to improve maternal health care quality and safety.*
- (4) *On or before November 1 of each year, the panel shall submit a report to the Interim Joint Committee on Health, Welfare, and Family Services and the Advisory Council for Medicaid Services describing the panel's work and any recommendations to address identified gaps in services and supports for perinatal mental health disorders.*

➔Section 2. The Cabinet for Health and Family Services is hereby directed to, no later than November 1, 2023, prepare and submit to the federal Centers for Medicare and Medicaid Services a state plan amendment application to provide medical assistance, to the fullest extent permitted under federal law, including but not limited to 42 U.S.C. sec. 1396a, for inpatient and outpatient services provided by a residential pediatric recovery center.

➔Section 3. The Cabinet for Health and Family Services shall, in accordance with KRS 205.525, provide a copy of the state plan amendment submitted pursuant to Section 2 of this Act to the Interim Joint Committee on Health, Welfare, and Family Services and the Interim Joint Committee on Appropriations and Revenue and shall provide an update on the status of the state plan amendment application upon request.

➔Section 4. In the event the Legislative Research Commission dissolves the Interim Joint Committee on Health, Welfare, and Family Services and establishes another interim joint committee or multiple interim joint committees with jurisdiction over health services or families and children, the reports required in Sections 1 and 3 of this Act shall be submitted to that interim joint committee.

Signed by Governor March 22, 2023.

CHAPTER 58

(HB 226)

AN ACT relating to reorganization.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act:

- (1) *"Community crisis response team" means the statewide team of trained volunteers who provide behavioral health-related crisis response services in accordance with protocols and procedures established by the department;*
- (2) *"Crisis response services" means consultation, risk assessment, referral, and on-site crisis intervention services provided to persons with behavioral health needs resulting from a crisis or disaster. "Crisis response services" shall not be construed to include any services performed or intended to be performed by*

any other agency of the Commonwealth, any of its subdivisions, or any private party included under KRS Chapter 39A, 39B, or 224;

- (3) *"Department" means the Department for Behavioral Health, Intellectual and Developmental Disabilities; and*
- (4) *"Local community crisis response team" means a team of trained volunteers who provide behavioral health-related crisis response services in a county, district, or region in accordance with protocols and procedures established by the department.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) *The department shall coordinate behavioral health-related community crisis and disaster response. The department shall have primary responsibility and authority for planning and executing behavioral health-related community crisis response and behavioral health-related disaster response.*
- (2) *The department shall:*
 - (a) *Develop, update, and maintain a statewide community crisis response support plan for providing crisis response services;*
 - (b) *Serve as the primary state agency for the core functional area of mental health and substance abuse care under Emergency Support Function #8, Public Health and Medical Services;*
 - (c) *Annually review the behavioral health portion of the Kentucky Emergency Operations Plan and make recommendations for updates to the plan;*
 - (d) *Participate in state-level planning workgroups to address the provision of crisis response services;*
 - (e) *Establish and maintain memoranda of understanding and master agreements with local partners to provide crisis response services following a disaster or critical incident;*
 - (f) *Develop, administer, and maintain a statewide system of registration and credentialing of community crisis response volunteers to provide crisis response services;*
 - (g) *Actively recruit volunteers to serve on the community crisis response team and the local community crisis response teams, ensuring representation from a diversity of first responders and behavioral health provider peer groups;*
 - (h) *Develop, administer, and maintain a statewide network of registered, credentialed, and regional response-ready volunteers to provide crisis response services following a disaster or critical incidents in the Commonwealth;*
 - (i) *Participate in local and statewide all-hazards and terrorism disaster exercises focusing on meeting behavioral health needs of those affected;*
 - (j) *Create and execute all-hazards and terrorism disaster exercises for volunteers for the community crisis response team and local community crisis response teams focusing on meeting behavioral health needs of those affected;*
 - (k) *Apply for and administer Federal Emergency Management Agency crisis counseling grants following a Presidential declaration, in collaboration with local and regional behavioral health providers; and*
 - (l) *Apply for and administer community crisis response and disaster specific behavioral health grants from:*
 - 1. *The federal government;*
 - 2. *Private foundations; and*
 - 3. *Other sources that may be available for programs related to supporting survivors of crisis events or community disasters.*

➔Section 3. The following KRS sections are repealed:

36.250 Definitions for KRS 36.250 to 36.270.

36.255 Kentucky Community Crisis Response Board -- Members -- Meetings.

36.260 Duties of board.

36.265 Attorney General to represent board members in civil proceedings.

36.270 Status of state and local government employees acting on behalf of board.

Signed by Governor March 22, 2023.

CHAPTER 59

(SB 203)

AN ACT relating to privacy.

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

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

- (1) *When a release of medical records, including mental health records of either party to a divorce or custody proceeding under this chapter, is tendered pursuant to the Family Court Rules of Practice and Procedure (FCRPP), those records shall be delivered pursuant to the FCRPP guidelines.*
- (2) *In the event either party objects to signing a release related to production of his or her medical or mental health records, an individual with a legally recognized interest in the disclosures sought may request an order authorizing the disclosure of a party's medical or mental health records. The request shall:*
 - (a) *Use initials only to refer to any patient; and*
 - (b) *Not contain or otherwise disclose any patient-identifying information unless the:*
 1. *Patient is the applicant;*
 2. *Patient has given written consent to disclose; or*
 3. *Court has ordered the record of the proceeding sealed from the public.*
- (3) *The patient and the person holding the records from whom disclosure is sought shall be provided:*
 - (a) *Adequate notice in a manner that does not disclose patient-identifying information to other persons; and*
 - (b) *An opportunity to file a written response to the request, or to appear in person, for the limited purpose of providing evidence on the statutory and regulatory criteria for the issuance of the court order as described in subsection (5) of this section.*
- (4) *Unless the patient requests an open hearing, any oral argument, review of evidence, or hearing on the request shall be held in the judge's chambers or in some manner which ensures that patient-identifying information is not disclosed to anyone other than a party to the proceeding, the patient, or the person holding the record. The proceeding may include an examination by the judge of the patient records referred to in the request.*
- (5) *An order under subsection (2) of this section shall be entered only if the court finds that:*
 - (a) *Other ways of obtaining the information are not available or would not be effective; and*
 - (b) *The public interest and need for the disclosure outweigh the potential injury to the patient, the physician-patient relationship, and the treatment services.*
- (6) *All medical and mental health records used in proceedings under this chapter shall be accompanied by an order which shall:*
 - (a) *Limit disclosure to those parts of the patient's record which are essential to fulfill the objective of the order;*
 - (b) *Limit disclosure to those persons whose need for information is the basis for the order; and*
 - (c) *Include other measures as are necessary to limit disclosure for the protection of the patient, the physician-patient relationship, and the treatment services, such as:*

1. *Limiting viewing of the records to in camera inspection;*
 2. *Restricting discussion of the content of the medical or mental health records with anyone who is not a party to the case;*
 3. *Restricting copying, photographing, or otherwise duplicating records; and*
 4. *Sealing the record.*
- (7) *A violation of an order entered under this section may subject the offender to the contempt powers of the court.*
- (8) *Nothing in this section shall be construed to restrict treatment providers or other professionals involved in a court proceeding from collaborating or consulting with one another or any other individual involved in the proceeding from reporting a legitimate safety concern or incident of abuse to the appropriate authorities.*

➔Section 2. 2023 RS SB 62/EN is hereby amended to read as follows:

On page 3, line 1, after "*person*", insert "*not*".

Signed by Governor March 22, 2023.

CHAPTER 60

(HB 391)

AN ACT relating to long-term care.

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

➔Section 1. KRS 216.590 is amended to read as follows:

- (1) *As used in this section:*
- (a) *"CMS" means the Centers for Medicare and Medicaid Services;*
 - (b) *"Long-term care facility" means a nursing facility that is certified under Title XVIII or XIX of the Social Security Act; and*
 - (c) *"Long-term care provider association" includes but is not limited to the Kentucky Association of Health Care Facilities, the Kentucky Center for Assisted Living, and LeadingAge Kentucky.*
- (2) *The cabinet shall provide training for surveyors and investigators who perform duties related to KRS 216.537 to 216.590.*
- (3) *The Cabinet for Health and Family Services and representatives of long-term care provider associations shall evaluate and discuss opportunities for joint training no less than annually or upon the release of any new regulatory guideline, regulation, interpretation, program letter, or memorandum, or, if permitted by CMS, any other new materials used in surveyor training.*
- (4) *The cabinet shall invite representatives of long-term care provider associations to participate in the planning process for any joint surveyor and provider training session, which may be held in person or remotely.*
- (5) (a) *The cabinet may seek approval from CMS to utilize money from the Civil Money Penalty Reinvestment Program to cover the costs of joint training for surveyors and staff of long-term care facilities.*
- (b) *If CMS denies the cabinet's application for funding to cover the cost of an in-person training session, the cabinet shall charge the long-term care provider associations for providing the training.*
- (6) *If the training is approved by the cabinet, nothing in this section shall prohibit a long-term care provider association from offering joint training to its membership and surveyors.*

Signed by Governor March 22, 2023.

CHAPTER 61

(HB 502)

AN ACT relating to health care services agencies.

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

➔Section 1. KRS 216.718 is amended to read as follows:

As used in KRS 216.718 to 216.728:

- (1) "Assisted living community" has the same meaning as in KRS 194A.700;
- (2) "Cabinet" means the Cabinet for Health and Family Services;
- (3) "Controlling person" means:
 - (a) A corporation, partnership, or other business entity, or an officer, program administrator or director thereof, whose responsibilities include the direction of the management or policies of a health care services agency; or
 - (b) An individual who, directly or indirectly, beneficially owns an interest in a corporation, partnership, or other business entity that is a health care services agency;
- (4) "Direct care service" means a service provided to a resident in an assisted living community, a resident in a long-term care facility, or a patient in a hospital, by direct care staff;
- (5) "**Permanent** direct care staff" means an individual who contracts with or is employed by a health care services agency **on a nontemporary basis** to provide direct care services to residents in assisted living communities, residents in long-term care facilities, or patients in hospitals;
- (6) "Health care services agency" means any person, firm, corporation, partnership, or other business entity engaged in the business of referring **temporary** direct care staff to render temporary direct care services to an assisted living community, a long-term care facility, or a hospital but does not include a health care services agency operated by an assisted living community, a long-term care facility, a hospital, or any affiliates thereof, solely for the purpose of procuring, furnishing, or referring temporary ~~or permanent~~ direct care staff for employment at that assisted living community, long-term care facility, hospital, or any affiliates thereof;
- (7) "Hospital" means a facility licensed pursuant to KRS Chapter 216B as an acute-care hospital, psychiatric hospital, rehabilitation hospital, or chemical dependency treatment facility;~~and~~
- (8) "Long-term care facilities" has the same meaning as in KRS 216.510; **and**
- (9) "**Temporary direct care staff**" means an individual who contracts with or is employed by a health care services agency for an undefined duration or a duration of less than twenty-four (24) continuous months exclusive of any extension to provide direct care services to residents in assisted living communities, residents in long-term care facilities, or patients in hospitals.

➔Section 2. KRS 216.722 is amended to read as follows:

- (1) A health care services agency shall:
 - (a) Retain documentation that each **temporary** direct care staff contracted with or employed by the agency meets the minimum licensing, certification, training, and continuing education standards for his or her position;
 - (b) Comply with all pertinent requirements relating to the health and other qualifications of personnel employed in assisted living communities, long-term care facilities, or hospitals;
 - (c) Carry all professional and general liability insurance coverage to insure against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in the provision of direct care services by the health care services agency or any **temporary** direct care staff;
 - (d) Carry an employee dishonesty bond in the amount of ten thousand dollars (\$10,000);

- (e) Maintain coverage for workers' compensation for all *temporary* direct care staff; and
 - (f) Retain all records for five (5) calendar years and make all records immediately available to the cabinet upon request.
- (2) Failure to comply with subsection (1) of this section shall result in:
- (a) Denial of an application for registration or registration renewal; or
 - (b) Revocation of registration and a monetary penalty in the amount of twenty-five thousand dollars (\$25,000).
- (3) If the cabinet determines that a health care services agency has knowingly provided to an assisted living community, a long-term care facility, or a hospital *temporary* direct care staff who have illegally or fraudulently obtained or been issued a diploma, registration, license, certification, or criminal background check, the cabinet shall immediately notify the agency that its registration will be revoked in fifteen (15) days.

➔Section 3. KRS 216.724 is amended to read as follows:

- (1) A health care services agency shall not:
- (a) Restrict in any manner the employment opportunities of any *temporary* direct care staff that is contracted with or employed by the agency, including but not limited to contract buy-out provisions or contract non-compete clauses;
 - (b) Require, in any contract with *temporary* direct care staff, an assisted living community, a long-term care facility, or a hospital, the payment of liquidated damages, employment fees, or other compensation should the employee be hired as a permanent employee of the assisted living community, long-term care facility, or hospital, except in cases where the damages, fees, or compensation are payable solely by the assisted living community, long-term care facility, or hospital and the contract with the assisted living community, long-term care facility, or hospital specifies that the amount will be reduced pro-rata based on the length of time the *temporary* direct care staff performs services for the assisted living community, long-term care facility, or hospital while on the payroll of the health care services agency; or
 - (c) Solicit or recruit the current staff of an assisted living community, long-term care facility, or hospital, or require, as a condition of employment, assignment, or referral, that their employees recruit new employees for the agency from among the current employees of the assisted living community, long-term care facility, or hospital to which the agency employees are employed, assigned, or referred.
- (2) Any contract between a health care services agency and *temporary* direct care staff that does not comply with subsection (1) of this section shall be considered an unfair trade practice and be void pursuant to KRS 365.060.
- (3) ***The provisions of subsection (1) of this section shall not apply to contracts with permanent direct care staff or with an assisted living community, a long-term care facility, or a hospital for the placement of permanent direct care staff.***

➔Section 4. KRS 216.726 is amended to read as follows:

The cabinet shall establish a reporting system for complaints relating to a health care services agency or *temporary* direct care staff. Complaints may be reported by any member of the public. The cabinet shall investigate the complaints and report its findings to the complaining party and the health care services agency.

➔Section 5. KRS 216.728 is amended to read as follows:

- (1) A health care services agency shall submit quarterly reports to the cabinet.
- (2) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish requirements for health care services agencies to submit quarterly reports. The quarterly reports shall include but not be limited to the following:
- (a) The name, professional licensure or certification, and assigned location for each *temporary* direct care staff;
 - (b) The length of time the *temporary* direct care staff have been assigned to the assisted living communities, long-term care facilities, or hospitals and the total hours worked; and

- (c) For all long-term care facilities or hospitals that participate in the Medicare and Medicaid programs, copies of all invoices submitted to the long-term care community or hospital and proof of payment by the long-term care community or hospital.
- (3) A health care services agency shall disclose the following information in response to a request from the Attorney General during an investigation of an alleged or suspected violation of KRS 367.374 by the health care services agency:
 - (a) The amount charged for each *temporary* direct care staff;
 - (b) The amount paid to each *temporary* direct care staff;
 - (c) The amount of payment received that is retained by the health care services agency; and
 - (d) Any other information that the Attorney General deems relevant to determine the amount that the assisted living facility, long-term care facility, or hospital is charged by the health care services agency.
- (4) The information provided under subsection (3) of this section shall not be subject to open records laws pursuant to KRS 61.870 to 61.884.

➔SECTION 6. A NEW SECTION OF KRS 216.718 TO 216.728 IS CREATED TO READ AS FOLLOWS:

KRS 216.718 to 216.728 shall not apply to the placement of permanent direct care staff.

Signed by Governor March 22, 2023.

CHAPTER 62

(HB 76)

AN ACT relating to dates of recognition.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

- (1) *The following months are designated with honor in Kentucky:*
 - (a) *March of each year is designated as "National Agriculture Month";*
 - (b) *April of each year is designated as "National Soybean Month";*
 - (c) *May of each year is designated as "National Beef Month";*
 - (d) *June of each year is designated as "National Dairy Month";*
 - (e) *September of each year is designated as "National Poultry Month"; and*
 - (f) *October of each year is designated as "National Pork Month."*
- (2) *The week of George Washington's birthday, February 22 of each year, is designated with honor as "National Future Farmers of America (FFA) Week" in Kentucky.*
- (3) *The first full week of October of each year is designated with honor as "National 4-H Week" in Kentucky.*
- (4) *March 22 of each year is designated as "National Agriculture (Ag) Day" throughout the Commonwealth.*

Signed by Governor March 22, 2023.

CHAPTER 63

(HB 393)

AN ACT relating to governmental transactions.

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

➔Section 1. KRS 45A.490 is amended to read as follows:

As used in KRS 45A.490 to 45A.494:

- (1) "Contract" means any agreement of a **governmental body**~~[public agency]~~, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item; and
- (2) **"Governmental body" has the same meaning as in KRS 45A.030**~~["Public agency" has the same meaning as in KRS 61.805].~~

➔Section 2. KRS 45A.492 is amended to read as follows:

The General Assembly declares:

- (1) A public purpose of the Commonwealth is served by providing preference to Kentucky residents in contracts by **its governmental bodies**~~[public agencies]~~; and
- (2) Providing preference to Kentucky residents equalizes the competition with other states that provide preference to their residents.

➔Section 3. KRS 45A.494 is amended to read as follows:

- (1) Prior to a contract being awarded to the lowest responsible and responsive bidder on a contract by a **governmental body**~~[public agency]~~, a resident bidder of the Commonwealth shall be given a preference against a nonresident bidder registered in any state that gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidder.
- (2) A resident bidder is an individual, partnership, association, corporation, or other business entity that, on the date the contract is first advertised or announced as available for bidding:
 - (a) Is authorized to transact business in the Commonwealth; and
 - (b) Has for one (1) year prior to and through the date of the advertisement, filed Kentucky corporate income taxes, made payments to the Kentucky unemployment insurance fund established in KRS 341.490, and maintained a Kentucky workers' compensation policy in effect.
- (3) A nonresident bidder is an individual, partnership, association, corporation, or other business entity that does not meet the requirements of subsection (2) of this section.
- (4) If a procurement determination results in a tie between a resident bidder and a nonresident bidder, preference shall be given to the resident bidder.
- (5) This section shall apply to all contracts funded or controlled in whole or in part by a **governmental body**~~[public agency]~~.
- (6) The Finance and Administration Cabinet shall maintain a list of states that give to or require a preference for their own resident bidders, including details of the preference given to such bidders, to be used by **governmental bodies**~~[public agencies]~~ in determining resident bidder preferences. The cabinet shall also promulgate administrative regulations in accordance with KRS Chapter 13A establishing the procedure by which the preferences required by this section shall be given.
- (7) The preference for resident bidders shall not be given if the preference conflicts with federal law.
- (8) Any **governmental body**~~[public agency]~~ soliciting or advertising for bids for contracts shall make KRS 45A.490 to 45A.494 part of the solicitation or advertisement for bids.

➔Section 4. KRS 82.083 is amended to read as follows:

- (1) As used in this section, "independent appraisal" means an appraisal made by:
 - (a) An individual or organization not affiliated with the city or its officers or employees, using a generally accepted national or professional standard; or
 - (b) A city's officers or employees using a nationally published valuation of property based on the most recent edition of the publication.
- (2) A city may sell or otherwise dispose of any of its real or personal property.

- (3) Before selling or otherwise disposing of any real or personal property **that has any value**, the city shall make a written determination setting forth and fully describing:
- (a) The real or personal property;
 - (b) Its intended use at the time of acquisition;
 - (c) The reasons why it is in the public interest to dispose of it; and
 - (d) The method of disposition to be used.
- (4) Real or personal property may be:
- (a) Transferred, with or without compensation, to another governmental agency;
 - (b) Transferred, with or without compensation, for economic development purposes, which shall include but not be limited to real property transfers for the elimination of blight;
 - (c) Sold at public auction following publication of the auction in accordance with KRS 424.130(1)(b);
 - (d) Sold by electronic auction following publication of the auction, including the uniform resource link (URL) for the site of the electronic auction, in accordance with KRS 424.130(1)(b);
 - (e) Sold by sealed bids in accordance with the procedure for sealed bids under KRS 45A.365(3) and (4);
 - (f) Traded towards the purchase of the same or similar type of property, if the trade-in value received equals or exceeds the actual fair market value of the property as determined using an independent appraisal as defined in subsection (1) of this section;
 - (g) Sold for its appraised fair market value or a greater amount if the property is valued at **ten thousand dollars (\$10,000)**~~five thousand dollars (\$5,000)~~ or less in an independent appraisal. Property sold under this paragraph may not be sold to a city officer or employee or family member of a city officer or employee as defined in the city's ethics ordinance adopted under KRS 65.003;
 - (h) **Notwithstanding subsection (3) of this section**, sold for scrap or disposed of as garbage in a manner consistent with the public interest if the property has no value, or is of **negligible**~~nominal~~ value as determined by an independent appraisal;~~or~~
 - (i) Sold by the Finance and Administration Cabinet under an agreement with the city; **or**
 - (j) Notwithstanding subsection (3) of this section, when the property is an animal used in service by the city, given to the animal's primary handler or trainer, without the payment of compensation, when the animal is retired or is no longer capable of performing service to the city.**
- (5) If a city receives no bids for the real or personal property, either at public or electronic auction or by sealed bid, the property may be disposed of, consistent with the public interest, in any manner deemed appropriate by the city. In those instances, a written description of the property, the method of disposal, and the amount of compensation, if any, shall be made.
- (6) Any compensation resulting from the disposal of this real or personal property shall be transferred to the general fund of the city.

➔Section 5. KRS 424.260 is amended to read as follows:

- (1) Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for:
- (a) Materials;
 - (b) Supplies, except perishable foods such as meat, poultry, fish, egg products, fresh vegetables, and fresh fruits;
 - (c) Equipment; or
 - (d) Contractual services other than professional;

involving an expenditure of more than thirty thousand dollars (\$30,000) without first making newspaper advertisement for bids. This subsection shall not apply to the transfer of property between governmental agencies as authorized in KRS 82.083(4)(a).

- (2) If the fiscal court requires that the sheriff or county clerk advertise for bids on expenditures of less than thirty thousand dollars (\$30,000), the fiscal court requirement shall prevail.
- (3) (a) Nothing in this statute shall limit or restrict the ability of a local school district to acquire supplies and equipment outside of the bidding procedure if those supplies and equipment meet the specifications of the contracts awarded by the Office of Material and Procurement Services in the Office of the Controller within the Finance and Administration Cabinet or a federal, local, or cooperative agency and are available for purchase elsewhere at a lower price. A board of education may purchase those supplies and equipment without advertising for bids if, prior to making the purchases, the board of education obtains certification from the district's finance or purchasing officer that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the various price contract agreements or available through the bid of another school district whose bid specifications would allow the district to utilize their bid.
- (b) The procedures set forth in paragraph (a) of this subsection shall not be available to the district for any specific item once the bidding procedure has been initiated by an invitation to bid and a publication of specifications for that specific item has been published. In the event that all bids are rejected, the district may again avail itself of the provisions of paragraph (a) of this subsection.
- (4) This requirement shall not apply in an emergency if the chief executive officer of the city, county, or district has duly certified that an emergency exists, and has filed a copy of the certificate with the chief financial officer of the city, county, or district, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the chief state school officer.
- (5) The provisions of subsection (1) of this section shall not apply for the purchase of wholesale electric power for resale to the ultimate customers of a municipal utility organized under KRS 96.550 to 96.900.
- (6) *Subsection (1) of this section shall not apply to purchases for products or services made pursuant to Section 6 of this Act.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

KRS 45A.345 to 45A.460 and 424.260 shall not apply to city governments, urban-county governments, or consolidated local governments for the purchase of:

- (1) *Products or services when there is a single source of the product or service to be procured within a reasonable geographic area;*
- (2) *Products needed as replacement parts for personal property or equipment where the need cannot be reasonably anticipated and maintaining an inventory of replacement parts is not feasible; and*
- (3) *Products or services that are provided by:*
 - (a) *Entities recognized by the Office of Vocational Rehabilitation under KRS Chapter 163 that operate programs for the rehabilitation of individuals who are blind or visually impaired;*
 - (b) *Agencies for individuals with severe disabilities as described in KRS 45A.465;*
 - (c) *A qualified veterans' workshop providing job and employment-skill training to veterans where such a workshop is operated by the United States Department of Veterans Affairs;*
 - (d) *Nonprofit organizations, employment services organizations, or other private business organizations with established operations within the jurisdiction of the city, urban-county government, or consolidated local government with the main mission or business purpose of serving individuals with disabilities by offering transitional or supported employment services or other rehabilitative programs and services, including but not limited to serving individuals with severe mental or physical disabilities or those recovering from substance abuse disorders; or*
 - (e) *Nonprofit community service organizations operating within the jurisdiction of the city, urban-county government, or consolidated local government when there is a determination in the official record of the legislative body that the purchase of the products or services would serve a mutual benefit to the government and the organization by:*
 1. *Furthering the purposes of the organization;*

2. *Providing a service or product needed by the government;*
3. *Advancing a specific public purpose; and*
4. *Serving the best interest of the public.*

If two (2) or more organizations meet the qualifications set out in this paragraph, then the government shall award the contract to one (1) of the qualifying organizations using the selection criteria of its adopted competitive bidding process.

➔Section 7. KRS 160.160 is amended to read as follows:

- (1) Each school district shall be under the management and control of a board of education consisting of five (5) members, except in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished which shall have seven (7) members elected from the divisions and in the manner prescribed by KRS 160.210(5), to be known as the "Board of Education of ..., Kentucky." Each board of education shall be a body politic and corporate with perpetual succession. It may sue and be sued; make contracts; expend funds necessary for liability insurance premiums and for the defense of any civil action brought against an individual board member in his official or individual capacity, or both, on account of an act made in the scope and course of his performance of legal duties as a board member; purchase, receive, hold, and sell property; issue its bonds to build and construct improvements; and do all things necessary to accomplish the purposes for which it is created. Each board of education shall elect a chairman and vice chairman from its membership in a manner and for a term prescribed by the board not to exceed two (2) years.
- (2) No board of education shall participate in any financing of school buildings, school improvements, appurtenances thereto, or furnishing and equipment, including education technology equipment without:
 - (a) First establishing the cost of the project in advance of financing, based on the receipt of advertised, public, and competitive bids for such project, in accordance with KRS Chapter 424; and
 - (b) Establishing the cost of financing in advance of the sale of any bonds, certificates of participation in any leases, or other evidences of financial commitments issued by or on behalf of such board. Any bonds, leases, participations, or other financial arrangements shall not involve a final commitment of the board until the purchaser or lender involved shall have been determined by public advertising in accordance with KRS Chapter 424.
- (3) No board of education shall make a mortgage, lien, or other encumbrance upon any school building owned by the board, or transfer title to any such school building as part of any financing arrangement, without the specific approval of the Department of Education, and without the transaction being entered into pursuant to a detailed plan or procedure specifically authorized by Kentucky statute.
- (4) Without the approval of the Department of Education, no board may lease, as lessee, a building or public facility that has been or is to be financed at the request of the board or on its behalf through the issuance of bonds by another public body or by a nonprofit corporation serving as an agency and instrumentality of the board, or by a leasing corporation. Any lease, participation, or other financial arrangement shall not involve a final commitment of the board unless and until the purchaser or lender involved in same shall have been determined by public advertising in accordance with KRS Chapter 424. No transaction shall be entered into by the board except upon the basis of public advertising and competitive bidding in accordance with KRS Chapter 424.
- (5) Rental payments due by a board under a lease approved by the Department of Education in accordance with subsection (4) of this section shall be due and payable not less than ten (10) days prior to the interest due date for the bonds, notes, or other debt obligations issued to finance the building or public facility. If a board fails to make a rental payment when due under a lease, upon notification to the Department of Education by the paying agent, bond registrar, or trustee for the bonds not less than three (3) days prior to the interest due date, the Department of Education shall withhold or intercept any funds then due the board to the extent of the amount of the required payment on the bonds and remit the amount to the paying agent, bond registrar, or trustee as appropriate. Thereafter, the Department of Education shall resolve the matter with the board and adjust remittances to the board to the extent of the amount paid by the Department of Education on the board's behalf.
- (6) Bonds, notes or leases negotiated to provide education technology shall not be sold for longer than seven (7) years or the useful life of the equipment as established by the state technology master plan, whichever is less.

- (7) *Notwithstanding any requirements of public advertising, competitive bidding, or approval by the Department of Education, or any administrative regulation promulgated pursuant to KRS 156.160(1)(o), a local board may authorize the transfer or sale of the district's real or personal property to another governmental or quasi-governmental agency in exchange for money or a similar type of property that equals or exceeds the fair market value of the district property as determined by an independent appraisal conducted by:*
- (a) *An individual or organization not affiliated with the district or its officers or employees, using a generally accepted national or professional standard; or*
 - (b) *A district's officers or employees using a nationally published valuation of property based on the most recent edition of the publication.*

Signed by Governor March 22, 2023.

CHAPTER 64

(SB 57)

AN ACT relating to the Cosmetology Licensure Compact.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

ARTICLE 1. PURPOSE

The purpose of this Compact is to facilitate the interstate practice and regulation of Cosmetology with the goal of improving public access to, and the safety of, Cosmetology Services and reducing unnecessary burdens related to Cosmetology licensure. Through this Compact, the Member States seek to establish a regulatory framework which provides for a new multistate licensing program. Through this new licensing program, the Member States seek to provide increased value and mobility to licensed Cosmetologists in the Member States, while ensuring the provision of safe, effective, and reliable services to the public.

This Compact is designed to achieve the following objectives, and the Member States hereby ratify the same intentions by subscribing hereto:

- A. *Provide opportunities for interstate practice by Cosmetologists who meet uniform requirements for multistate licensure;*
- B. *Enhance the abilities of Member States to protect public health and safety, and prevent fraud and unlicensed activity within the profession;*
- C. *Ensure and encourage cooperation between Member States in the licensure and regulation of the Practice of Cosmetology;*
- D. *Support relocating Active Military Members and their spouses;*
- E. *Facilitate the exchange of information between Member States related to the licensure, investigation, and discipline of the Practice of Cosmetology; and*
- F. *Provide for the licensure and mobility of the workforce in the profession, while addressing the shortage of workers and lessening the associated burdens on the Member States.*

ARTICLE 2. DEFINITIONS

As used in this Compact, and except as otherwise provided, the following definitions shall govern the terms herein:

- A. *"Active Military Member" means any person with full-time duty status in the Armed Forces of the United States, including members of the National Guard and Reserve;*
- B. *"Adverse Action" means any administrative, civil, equitable, or criminal action permitted by a Member State's laws which is imposed by a State Licensing Authority or other regulatory body against a Cosmetologist, including actions against an individual's license or Authorization to Practice such as revocation, suspension, probation, monitoring of the Licensee, limitation of the Licensee's practice, or any*

other Encumbrance on a license affecting an individual's ability to participate in the Cosmetology industry, including the issuance of a cease and desist order;

- C. *"Authorization to Practice" means a legal authorization associated with a Multistate License permitting the Practice of Cosmetology in that Remote State, which shall be subject to the enforcement jurisdiction of the State Licensing Authority in that Remote State;*
- D. *"Alternative Program" means a non-disciplinary monitoring or prosecutorial diversion program approved by a Member State's State Licensing Authority;*
- E. *"Background Check" means the submission of information for an applicant for the purpose of obtaining that applicant's criminal history record information, as further defined in 28 C.F.R. sec. 20.3(d), from the Federal Bureau of Investigation and the agency responsible for retaining State criminal or disciplinary history in the applicant's Home State;*
- F. *"Charter Member State" means Member States who have enacted legislation to adopt this Compact where such legislation predates the effective date of this Compact as defined in Article 13;*
- G. *"Commission" means the government agency whose membership consists of all States that have enacted this Compact, which is known as the Cosmetology Licensure Compact Commission, as defined in Article 9, and which shall operate as an instrumentality of the Member States;*
- H. *"Cosmetologist" means an individual licensed in their Home State to practice Cosmetology;*
- I. *"Cosmetology," "Cosmetology Services," and the "Practice of Cosmetology" mean the care and services provided by a Cosmetologist as set forth in the Member State's statutes and regulations in the State where the services are being provided;*
- J. *"Current Significant Investigative Information" means:*
 - 1. *Investigative Information that a State Licensing Authority, after an inquiry or investigation that complies with a Member State's due process requirements, has reason to believe is not groundless and if proved true, would indicate a violation of that State's laws regarding fraud or the Practice of Cosmetology; or*
 - 2. *Investigative Information that indicates that a Licensee has engaged in fraud or represents an immediate threat to public health and safety, regardless of whether the Licensee has been notified and had an opportunity to respond;*
- K. *"Data System" means a repository of information about Licensees, including but not limited to license status, Investigative Information, and Adverse Actions;*
- L. *"Disqualifying Event" means any event which shall disqualify an individual from holding a Multistate License under this Compact, which the Commission may by Rule or order specify;*
- M. *"Encumbered License" means a license in which an Adverse Action restricts the Practice of Cosmetology by a Licensee, or where said Adverse Action has been reported to the Commission;*
- N. *"Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted Practice of Cosmetology by a State Licensing Authority;*
- O. *"Executive Committee" means a group of delegates elected or appointed to act on behalf of, and within the powers granted to them by, the Commission;*
- P. *"Home State" means the Member State which is a Licensee's primary State of residence, and where that Licensee holds an active and unencumbered license to practice Cosmetology;*
- Q. *"Investigative Information" means information, records, or documents received or generated by a State Licensing Authority pursuant to an investigation or other inquiry;*
- R. *"Jurisprudence Requirement" means the assessment of an individual's knowledge of the laws and rules governing the Practice of Cosmetology in a State;*
- S. *"Licensee" means an individual who currently holds a license from a Member State to practice as a Cosmetologist;*
- T. *"Member State" means any State that has adopted this Compact;*

- U. *"Multistate License" means a license issued by and subject to the enforcement jurisdiction of the State Licensing Authority in a Licensee's Home State, which authorizes the Practice of Cosmetology in Member States and includes Authorizations to Practice Cosmetology in all Remote States pursuant to this Compact;*
- V. *"Remote State" means any Member State, other than the Licensee's Home State;*
- W. *"Rule" means any rule or regulation promulgated by the Commission under this Compact which has the force of law;*
- X. *"Single-State License" means a Cosmetology license issued by a Member State that authorizes the Practice of Cosmetology only within the issuing State and does not include any authorization outside of the issuing State;*
- Y. *"State" means a State, territory, or possession of the United States and the District of Columbia; and*
- Z. *"State Licensing Authority" means a Member State's regulatory body responsible for issuing Cosmetology licenses or otherwise overseeing the Practice of Cosmetology in that State;*

ARTICLE 3. MEMBER STATE REQUIREMENTS

- A. *To be eligible to join this Compact, and to maintain eligibility as a Member State, a State shall:*
 - 1. *License and regulate Cosmetology;*
 - 2. *Have a mechanism or entity in place to receive and investigate complaints about Licensees practicing in that State;*
 - 3. *Require that Licensees within the State pass a Cosmetology competency examination prior to being licensed to provide Cosmetology Services to the public in that State;*
 - 4. *Require that Licensees satisfy educational or training requirements in Cosmetology prior to being licensed to provide Cosmetology Services to the public in that State;*
 - 5. *Implement procedures for considering one (1) or more of the following categories of information from applicants for licensure: criminal history; disciplinary history; or Background Check. Such procedures may include the submission of information by applicants for the purpose of obtaining an applicant's Background Check as defined herein;*
 - 6. *Participate in the Data System, including through the use of unique identifying numbers;*
 - 7. *Share information related to Adverse Actions with the Commission and other Member States, both through the Data System and otherwise;*
 - 8. *Notify the Commission and other Member States, in compliance with the terms of the Compact and Rules of the Commission, of the existence of Investigative Information or Current Significant Investigative Information in the State's possession regarding a Licensee practicing in that State;*
 - 9. *Comply with such Rules as may be enacted by the Commission to administer the Compact; and*
 - 10. *Accept Licensees from other Member States as established herein.*
- B. *Member States may charge a fee for granting a license to practice Cosmetology.*
- C. *Individuals not residing in a Member State shall continue to be able to apply for a Member State's Single-State License as provided under the laws of each Member State. However, the Single-State License granted to these individuals shall not be recognized as granting a Multistate License to provide services in any other Member State.*
- D. *Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single-State License.*
- E. *A Multistate License issued to a Licensee by a Home State to a resident of that State shall be recognized by each Member State as authorizing a Licensee to practice Cosmetology in each Member State.*
- F. *At no point shall the Commission have the power to define the educational or professional requirements for a license to practice Cosmetology. The Member States shall retain sole jurisdiction over the provision of these requirements.*

ARTICLE 4. MULTISTATE LICENSE

- A. *To be eligible to apply to their Home State's State Licensing Authority for an initial Multistate License under this Compact, a Licensee shall hold an active and unencumbered Single-State License to practice Cosmetology in their Home State.*
- B. *Upon the receipt of an application for a Multistate License, according to the Rules of the Commission, a Member State's State Licensing Authority shall ascertain whether the applicant meets the requirements for a Multistate License under this Compact.*
- C. *If an applicant meets the requirements for a Multistate License under this Compact and any applicable Rules of the Commission, the State Licensing Authority in receipt of the application shall, within a reasonable time, grant a Multistate License to that applicant, and inform all Member States of the grant of said Multistate License.*
- D. *A Multistate License to practice Cosmetology issued by a Member State's State Licensing Authority shall be recognized by each Member State as authorizing the practice thereof as though that Licensee held a Single-State License to do so in each Member State, subject to the restrictions herein.*
- E. *A Multistate License granted pursuant to this Compact may be effective for a definite period of time, concurrent with the licensure renewal period in the Home State.*
- F. *To maintain a Multistate License under this Compact, a Licensee must:*
 - 1. *Agree to abide by the rules of the State Licensing Authority, and the State scope of practice laws governing the Practice of Cosmetology, of any Member State in which the Licensee provides services;*
 - 2. *Pay all required fees related to the application and process, and any other fees which the Commission may by Rule require; and*
 - 3. *Comply with any and all other requirements regarding Multistate Licenses which the Commission may by Rule provide.*
- G. *A Licensee practicing in a Member State is subject to all scope of practice laws governing Cosmetology Services in that State.*
- H. *The Practice of Cosmetology under a Multistate License granted pursuant to this Compact will subject the Licensee to the jurisdiction of the State Licensing Authority, the courts, and the laws of the Member State in which the Cosmetology Services are provided.*

ARTICLE 5. REISSUANCE OF A MULTISTATE LICENSE BY A NEW HOME STATE

- A. *A Licensee may hold a Multistate License, issued by their Home State, in only one (1) Member State at any given time.*
- B. *If a Licensee changes their Home State by moving between two (2) Member States:*
 - 1. *The Licensee shall immediately apply for the reissuance of their Multistate License in their new Home State. The Licensee shall pay all applicable fees and notify the prior Home State in accordance with the Rules of the Commission.*
 - 2. *Upon receipt of an application to reissue a Multistate License, the new Home State shall verify that the Multistate License is active, unencumbered, and eligible for reissuance under the terms of the Compact and the Rules of the Commission. The Multistate License issued by the prior Home State will be deactivated and all Member States notified in accordance with the applicable Rules adopted by the Commission.*
 - 3. *If required for initial licensure, the new Home State may require a Background Check as specified in the laws of that State, or the compliance with any Jurisprudence Requirements of the new Home State.*
 - 4. *Notwithstanding any other provision of this Compact, if a Licensee does not meet the requirements set forth in this Compact for the reissuance of a Multistate License by the new Home State, then the Licensee shall be subject to the new Home State requirements for the issuance of a Single-State License in that State.*
- C. *If a Licensee changes their primary state of residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, then the Licensee shall be subject to the State requirements for the issuance of a Single-State License in the new Home State.*

- D. *Nothing in this Compact shall interfere with a Licensee's ability to hold a Single-State License in multiple States; however, for the purposes of this Compact, a Licensee shall have only one (1) Home State, and only one (1) Multistate License.*
- E. *Nothing in this Compact shall interfere with the requirements established by a Member State for the issuance of a Single-State License.*

ARTICLE 6. AUTHORITY OF THE COSMETOLOGY LICENSURE COMPACT COMMISSION AND MEMBER STATES STATE LICENSING AUTHORITIES

- A. *Nothing in this Compact, nor any Rule or regulation of the Commission, shall be construed to limit, restrict, or in any way reduce the ability of a Member State to enact and enforce laws, regulations, or other rules related to the Practice of Cosmetology in that State, where those laws, regulations, or other rules are not inconsistent with the provisions of this Compact.*
- B. *Insofar as practical, a Member State's State Licensing Authority shall cooperate with the Commission and with each entity exercising independent regulatory authority over the Practice of Cosmetology according to the provisions of this Compact.*
- C. *Discipline shall be the sole responsibility of the State in which Cosmetology Services are provided. Accordingly, each Member State's State Licensing Authority shall be responsible for receiving complaints about individuals practicing Cosmetology in that State, and for communicating all relevant Investigative Information about any such Adverse Action to the other Member States through the Data System in addition to any other methods the Commission may by Rule require.*

ARTICLE 7. ADVERSE ACTIONS

- A. *A Licensee's Home State shall have exclusive power to impose an Adverse Action against a Licensee's Multistate License issued by the Home State.*
- B. *A Home State may take Adverse Action on a Multistate License based on the Investigative Information, Current Significant Investigative Information, or Adverse Action of a Remote State.*
- C. *In addition to the powers conferred by State law, each Remote State's State Licensing Authority shall have the power to:*
 - 1. *Take Adverse Action against a Licensee's Authorization to Practice Cosmetology through the Multistate License in that Member State, provided that:*
 - a. *Only the Licensee's Home State shall have the power to take Adverse Action against the Multistate License issued by the Home State; and*
 - b. *For the purposes of taking Adverse Action, the Home State's State Licensing Authority shall give the same priority and effect to reported conduct received from a Remote State as it would if such conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine the appropriate action;*
 - 2. *Issue cease and desist orders or impose an Encumbrance on a Licensee's Authorization to Practice within that Member State;*
 - 3. *Complete any pending investigations of a Licensee who changes their primary state of residence during the course of such an investigation. The State Licensing Authority shall also be empowered to report the results of such an investigation to the Commission through the Data System as described herein;*
 - 4. *Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as the production of evidence. Subpoenas issued by a State Licensing Authority in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings before it. The issuing State Licensing Authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located;*
 - 5. *If otherwise permitted by State law, recover from the affected Licensee the costs of investigations and disposition of cases resulting from any Adverse Action taken against that Licensee; and*

6. *Take Adverse Action against the Licensee's Authorization to Practice in that State based on the factual findings of another Remote State.*
- D. *A Licensee's Home State shall complete any pending investigation(s) of a Cosmetologist who changes their primary state of residence during the course of the investigation(s). The Home State shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the Data System.*
- E. *If an Adverse Action is taken by the Home State against a Licensee's Multistate License, the Licensee's Authorization to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the Home State license. All Home State disciplinary orders that impose an Adverse Action against a Licensee's Multistate License shall include a statement that the Cosmetologist's Authorization to Practice is deactivated in all Member States during the pendency of the order.*
- F. *Nothing in this Compact shall override a Member State's authority to accept a Licensee's participation in an Alternative Program in lieu of Adverse Action. A Licensee's Multistate License shall be suspended for the duration of the Licensee's participation in any Alternative Program.*
- G. *Joint Investigations.*
1. *In addition to the authority granted to a Member State by its respective scope of practice laws or other applicable State law, a Member State may participate with other Member States in joint investigations of Licensees.*
 2. *Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.*

ARTICLE 8. ACTIVE MILITARY MEMBERS AND THEIR SPOUSES

Active Military Members, or their spouses, shall designate a Home State where the individual has a current license to practice Cosmetology in good standing. The individual may retain their Home State designation during any period of service when that individual or their spouse is on active duty assignment.

ARTICLE 9. ESTABLISHMENT OF THE COSMETOLOGY LICENSURE COMPACT COMMISSION

- A. *The Compact Member States hereby create and establish a joint government agency whose membership consists of all Member States that have enacted the Compact known as the Cosmetology Licensure Compact Commission. The Commission is an instrumentality of the Compact Member States acting jointly and not an instrumentality of any one (1) State. The Commission shall come into existence on or after the effective date of the Compact as set forth in Article 13.*
- B. *Membership, Voting, and Meetings.*
1. *Each Member State shall have and be limited to one (1) delegate selected by that Member State's State Licensing Authority.*
 2. *The delegate shall be an administrator of the State Licensing Authority of the Member State or their designee.*
 3. *The Commission shall by Rule or bylaw establish a term of office for delegates and may by Rule or bylaw establish term limits.*
 4. *The Commission may recommend removal or suspension of any delegate from office.*
 5. *A Member State's State Licensing Authority shall fill any vacancy of its delegate occurring on the Commission within sixty (60) days of the vacancy.*
 6. *Each delegate shall be entitled to one (1) vote on all matters that are voted on by the Commission.*
 7. *The Commission shall meet at least once during each calendar year. Additional meetings may be held as set forth in the bylaws. The Commission may meet by telecommunication, video conference, or other similar electronic means.*
- C. *The Commission shall have the following powers:*
1. *Establish the fiscal year of the Commission;*
 2. *Establish code of conduct and conflict of interest policies;*
 3. *Establish and amend Rules and bylaws;*

4. *Maintain its financial records in accordance with the bylaws;*
5. *Meet and take such actions as are consistent with the provisions of this Compact, the Commission's Rules, and the bylaws;*
6. *Initiate and conclude legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Authority to sue or be sued under applicable law shall not be affected;*
7. *Maintain and certify records and information provided to a Member State as the authenticated business records of the Commission, and designate an agent to do so on the Commission's behalf;*
8. *Purchase and maintain insurance and bonds;*
9. *Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;*
10. *Conduct an annual financial review;*
11. *Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;*
12. *As set forth in the Commission Rules, charge a fee to a Licensee for the grant of a Multistate License and thereafter, as may be established by Commission Rule, charge the Licensee a Multistate License renewal fee for each renewal period. Nothing herein shall be construed to prevent a Home State from charging a Licensee a fee for a Multistate License or renewals of a Multistate License, or a fee for the jurisprudence requirement if the Member State imposes such a requirement for the grant of Multistate License;*
13. *Assess and collect fees;*
14. *Accept any and all appropriate gifts, donations, grants of money, other sources of revenue, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety or conflict of interest;*
15. *Lease, purchase, retain, own, hold, improve, or use any property, real, personal, or mixed, or any undivided interest therein;*
16. *Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;*
17. *Establish a budget and make expenditures;*
18. *Borrow money;*
19. *Appoint committees, including standing committees, composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;*
20. *Provide and receive information from, and cooperate with, law enforcement agencies;*
21. *Elect a Chair, Vice Chair, Secretary and Treasurer and such other officers of the Commission as provided in the Commission's bylaws;*
22. *Establish and elect an Executive Committee, including a chair and a vice chair;*
23. *Adopt and provide to the Member States an annual report;*
24. *Determine whether a State's adopted language is materially different from the model Compact language such that the State would not qualify for participation in the Compact; and*
25. *Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact.*

D. *The Executive Committee.*

1. *The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact. The powers, duties, and responsibilities of the Executive Committee shall include:*
 - a. *Overseeing the day-to-day activities of the administration of the Compact including compliance with the provisions of the Compact, the Commission's Rules and bylaws, and other such duties as deemed necessary;*
 - b. *Recommending to the Commission changes to the Rules or bylaws, changes to this Compact legislation, fees charged to Compact Member States, fees charged to Licensees, and other fees;*
 - c. *Ensuring Compact administration services are appropriately provided, including by contract;*
 - d. *Preparing and recommending the budget;*
 - e. *Maintaining financial records on behalf of the Commission;*
 - f. *Monitoring Compact compliance of Member States and providing compliance reports to the Commission;*
 - g. *Establishing additional committees as necessary;*
 - h. *Exercising the powers and duties of the Commission during the interim between Commission meetings, except for adopting or amending Rules, adopting or amending bylaws, and exercising any other powers and duties expressly reserved to the Commission by Rule or bylaw; and*
 - i. *Other duties as provided in the Rules or bylaws of the Commission.*
 2. *The Executive Committee shall be composed of up to seven (7) voting members:*
 - a. *The chair and vice chair of the Commission and any other members of the Commission who serve on the Executive Committee shall be voting sixteen (16) members of the Executive Committee; and*
 - b. *Other than the chair, vice-chair, secretary and treasurer, the Commission shall elect three voting members from the current membership of the Commission.*
 - c. *The Commission may elect ex officio, nonvoting members from a recognized national Cosmetology professional association as approved by the Commission. The Commission's bylaws shall identify qualifying organizations and the manner of appointment if the number of organizations seeking to appoint an ex officio member exceeds the number of members specified in this Article.*
 3. *The Commission may remove any member of the Executive Committee as provided in the Commission's bylaws.*
 4. *The Executive Committee shall meet at least annually.*
 - a. *Annual Executive Committee meetings, as well as any Executive Committee meeting at which it does not take or intend to take formal action on a matter for which a Commission vote would otherwise be required, shall be open to the public, except that the Executive Committee may meet in a closed, non-public session of a public meeting when dealing with any of the matters covered under Article 9.F.4.*
 - b. *The Executive Committee shall give five (5) business days advance notice of its public meetings, posted on its website and as determined to provide notice to persons with an interest in the public matters the Executive Committee intends to address at those meetings.*
 5. *The Executive Committee may hold an emergency meeting when acting for the Commission to:*
 - a. *Meet an imminent threat to public health, safety, or welfare;*
 - b. *Prevent a loss of Commission or Member State funds; or*
 - c. *Protect public health and safety.*
- E. *The Commission shall adopt and provide to the Member States an annual report.*
- F. *Meetings of the Commission.*

1. *All meetings of the Commission that are not closed pursuant to Article 9.F.4 shall be open to the public. Notice of public meetings shall be posted on the Commission's website at least thirty (30) days prior to the public meeting.*
2. *Notwithstanding Article 9.F.1, the Commission may convene an emergency public meeting by providing at least twenty-four (24) hours prior notice on the Commission's website, and any other means as provided in the Commission's Rules, for any of the reasons it may dispense with notice of proposed rulemaking under Article 11.L. The Commission's legal counsel shall certify that one of the reasons justifying an emergency public meeting has been met.*
3. *Notice of all Commission meetings shall provide the time, date, and location of the meeting, and if the meeting is to be held or accessible via telecommunication, video conference, or other electronic means, the notice shall include the mechanism for access to the meeting.*
4. *The Commission may convene in a closed, non-public meeting for the Commission to discuss:*
 - a. *Non-compliance of a Member State with its obligations under the Compact;*
 - b. *The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;*
 - c. *Current or threatened discipline of a Licensee by the Commission or by a Member State's State Licensing Authority;*
 - d. *Current, threatened, or reasonably anticipated litigation;*
 - e. *Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;*
 - f. *Accusing any person of a crime or formally censuring any person;*
 - g. *Trade secrets or commercial or financial information that is privileged or confidential;*
 - h. *Information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;*
 - i. *Investigative records compiled for law enforcement purposes;*
 - j. *Information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact;*
 - k. *Legal Advice;*
 - l. *Matters specifically exempted from disclosure by federal or Member State law; or*
 - m. *Other matters as promulgated by the Commission by Rule.*
5. *If a meeting, or portion of a meeting, is closed, the presiding officer shall state that the meeting will be closed and reference each relevant exempting provision, and such reference shall be recorded in the minutes.*
6. *The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.*

G. *Financing of the Commission.*

1. *The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.*
2. *The Commission may accept any and all appropriate sources of revenue, donations, and grants of money, equipment, supplies, materials, and services.*
3. *The Commission may levy on and collect an annual assessment from each Member State and impose fees on Licensees of Member States to whom it grants a Multistate License to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient*

to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount for Member States shall be allocated based upon a formula that the Commission shall promulgate by Rule.

4. *The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.*
5. *The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the financial review and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the Commission shall be subject to an annual financial review by a certified or licensed public accountant, and the report of the financial review shall be included in and become part of the annual report of the Commission.*

H. *Qualified Immunity, Defense, and Indemnification.*

1. *The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, both personally and in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person. The procurement of insurance of any type by the Commission shall not in any way compromise or limit the immunity granted hereunder.*
2. *The Commission shall defend any member, officer, executive director, employee, and representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or as determined by the Commission that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining their own counsel at their own expense; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.*
3. *The Commission shall indemnify and hold harmless any member, officer, executive director, employee, and representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.*
4. *Nothing herein shall be construed as a limitation on the liability of any Licensee for professional malpractice or misconduct, which shall be governed solely by any other applicable State laws.*
5. *Nothing in this Compact shall be interpreted to waive or otherwise abrogate a Member State's State action immunity or State action affirmative defense with respect to antitrust claims under the Sherman Act, Clayton Act, or any other State or federal antitrust or anticompetitive law or regulation.*
6. *Nothing in this Compact shall be construed to be a waiver of sovereign immunity by the Member States or by the Commission.*

ARTICLE 10. DATA SYSTEM

- A. *The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system.*
- B. *The Commission shall assign each applicant for a Multistate License a unique identifier, as determined by the Rules of the Commission.*

- C. *Notwithstanding any other provision of State law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:*
1. *Identifying information;*
 2. *Licensure data;*
 3. *Adverse Actions against a license and information related thereto;*
 4. *Non-confidential information related to Alternative Program participation, the beginning and ending dates of such participation, and other information related to such participation;*
 5. *Any denial of application for licensure, and the reason(s) for such denial (excluding the reporting of any criminal history record information where prohibited by law);*
 6. *The existence of Investigative Information;*
 7. *The existence of Current Significant Investigative Information; and*
 8. *Other information that may facilitate the administration of this Compact or the protection of the public, as determined by the Rules of the Commission.*
- D. *The records and information provided to a Member State pursuant to this Compact or through the Data System, when certified by the Commission or an agent thereof, shall constitute the authenticated business records of the Commission, and shall be entitled to any associated hearsay exception in any relevant judicial, quasi-judicial or administrative proceedings in a Member State.*
- E. *The existence of Current Significant Investigative Information and the existence of Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.*
- F. *It is the responsibility of the Member States to monitor the database to determine whether Adverse Action has been taken against such a Licensee or License applicant. Adverse Action information pertaining to a Licensee or License applicant in any Member State will be available to any other Member State.*
- G. *Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.*
- H. *Any information submitted to the Data System that is subsequently expunged pursuant to federal law or the laws of the Member State contributing the information shall be removed from the Data System.*

ARTICLE 11. RULEMAKING

- A. *The Commission shall promulgate reasonable Rules in order to effectively and efficiently implement and administer the purposes and provisions of the Compact. A Rule shall be invalid and have no force or effect only if a court of competent jurisdiction holds that the Rule is invalid because the Commission exercised its rulemaking authority in a manner that is beyond the scope and purposes of the Compact, or the powers granted hereunder, or based upon another applicable standard of review.*
- B. *The Rules of the Commission shall have the force of law in each Member State, provided however that where the Rules of the Commission conflict with the laws of the Member State that establish the Member State's scope of practice laws governing the Practice of Cosmetology as held by a court of competent jurisdiction, the Rules of the Commission shall be ineffective in that State to the extent of the conflict.*
- C. *The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the Rules adopted thereunder. Rules shall become binding as of the date specified by the Commission for each Rule.*
- D. *If a majority of the legislatures of the Member States rejects a Rule or portion of a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State or to any State applying to participate in the Compact.*
- E. *Rules shall be adopted at a regular or special meeting of the Commission.*
- F. *Prior to adoption of a proposed Rule, the Commission shall hold a public hearing and allow persons to provide oral and written comments, data, facts, opinions, and arguments.*

- G.** *Prior to adoption of a proposed Rule by the Commission, and at least thirty (30) days in advance of the meeting at which the Commission will hold a public hearing on the proposed Rule, the Commission shall provide a notice of proposed rulemaking:*
1. *On the website of the Commission or other publicly accessible platform;*
 2. *To persons who have requested notice of the Commission's notices of proposed rulemaking; and*
 3. *In such other way(s) as the Commission may by Rule specify.*
- H.** *The notice of proposed rulemaking shall include:*
1. *The time, date, and location of the public hearing at which the Commission will hear public comments on the proposed Rule and, if different, the time, date, and location of the meeting where the Commission will consider and vote on the proposed Rule;*
 2. *If the hearing is held via telecommunication, video conference, or other electronic means, the Commission shall include the mechanism for access to the hearing in the notice of proposed rulemaking;*
 3. *The text of the proposed Rule and the reason therefor;*
 4. *A request for comments on the proposed Rule from any interested person; and*
 5. *The manner in which interested persons may submit written comments.*
- I.** *All hearings will be recorded. A copy of the recording and all written comments and documents received by the Commission in response to the proposed Rule shall be available to the public.*
- J.** *Nothing in this Article shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Commission at hearings required by this Article.*
- K.** *The Commission shall, by majority vote of all members, take final action on the proposed Rule based on the rulemaking record and the full text of the Rule.*
1. *The Commission may adopt changes to the proposed Rule provided the changes do not enlarge the original purpose of the proposed Rule.*
 2. *The Commission shall provide an explanation of the reasons for substantive changes made to the proposed Rule as well as reasons for substantive changes not made that were recommended by commenters.*
 3. *The Commission shall determine a reasonable effective date for the Rule. Except for an emergency as provided in Article 11.L., the effective date of the Rule shall be no sooner than forty-five (45) days after issuing the notice that it adopted or amended the Rule.*
- L.** *Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule with five (5) days' notice, with opportunity to comment, provided that the usual rulemaking procedures provided in the Compact and in this Article shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately to:*
1. *Meet an imminent threat to public health, safety, or welfare;*
 2. *Prevent a loss of Commission or Member State funds;*
 3. *Meet a deadline for the promulgation of a Rule that is established by federal law or rule; or*
 4. *Protect public health and safety.*
- M.** *The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.*
- N.** *No Member State's rulemaking requirements shall apply under this Compact.*

ARTICLE 12. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT**A. Oversight.**

1. *The executive and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to implement the Compact.*
2. *Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a Licensee for professional malpractice, misconduct, or any such similar matter.*
3. *The Commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the Compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the Commission service of process shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.*

B. Default, Technical Assistance, and Termination.

1. *If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall provide written notice to the defaulting State. The notice of default shall describe the default, the proposed means of curing the default, and any other action that the Commission may take, and shall offer training and specific technical assistance regarding the default.*
2. *The Commission shall provide a copy of the notice of default to the other Member States.*
3. *If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the delegates of the Member States, and all rights, privileges and benefits conferred on that State by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.*
4. *Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, the defaulting State's State Licensing Authority and each of the Member States' State Licensing Authority.*
5. *A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.*
6. *Upon the termination of a State's membership from this Compact, that State shall immediately provide notice to all Licensees within that State of such termination. The terminated State shall continue to recognize all licenses granted pursuant to this Compact for a minimum of one hundred eighty (180) days after the date of said notice of termination.*
7. *The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.*
8. *The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.*

C. Dispute Resolution.

1. *Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between Member States and non-Member States.*
2. *The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.*

D. Enforcement.

1. *The Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this Compact and the Commission's Rules.*
2. *By majority vote as provided by Commission Rule, the Commission may initiate legal action against a Member State in default in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or the defaulting Member State's law.*
3. *A Member State may initiate legal action against the Commission in the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices to enforce compliance with the provisions of the Compact and its promulgated Rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.*
4. *No person other than a Member State may enforce this Compact against the Commission.*

ARTICLE 13. EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

- A. *The Compact shall come into effect on the date on which the Compact statute is enacted into law in the seventh Member State.*
 1. *On or after the effective date of the Compact, the Commission shall convene and review the enactment of each of the Charter Member States to determine if the statute enacted by each such Charter Member State is materially different than the model Compact statute.*
 - a. *A Charter Member State whose enactment is found to be materially different from the model Compact statute shall be entitled to the default process set forth in Article 12.*
 - b. *If any Member State is later found to be in default, or is terminated or withdraws from the Compact, the Commission shall remain in existence and the Compact shall remain in effect even if the number of Member States should be less than seven (7).*
 2. *Member States enacting the Compact subsequent to the Charter Member States shall be subject to the process set forth in Article 9.C.24 to determine if their enactments are materially different from the model Compact statute and whether they qualify for participation in the Compact.*
 3. *All actions taken for the benefit of the Commission or in furtherance of the purposes of the administration of the Compact prior to the effective date of the Compact or the Commission coming into existence shall be considered to be actions of the Commission unless specifically repudiated by the Commission.*
 4. *Any State that joins the Compact shall be subject to the Commission's Rules and bylaws as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.*
- B. *Any Member State may withdraw from this Compact by enacting a statute repealing the same.*
 1. *A Member State's withdrawal shall not take effect until one hundred eighty (180) days after enactment of the repealing statute.*
 2. *Withdrawal shall not affect the continuing requirement of the withdrawing State's Licensing Authority to comply with the investigative and Adverse Action reporting requirements of this Compact prior to the effective date of withdrawal.*
 3. *Upon the enactment of a statute withdrawing from this Compact, a State shall immediately provide notice of such withdrawal to all Licensees within that State. Notwithstanding any subsequent statutory enactment to the contrary, such withdrawing State shall continue to recognize all licenses granted pursuant to this Compact for a minimum of six (6) months after the date of such notice of withdrawal.*

- C. *Nothing contained in this Compact shall be construed to invalidate or prevent any licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.*
- D. *This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.*

ARTICLE 14. CONSTRUCTION AND SEVERABILITY

- A. *This Compact and the Commission's rulemaking authority shall be liberally construed so as to effectuate the purposes, and the implementation and administration of the Compact. Provisions of the Compact expressly authorizing or requiring the promulgation of Rules shall not be construed to limit the Commission's rulemaking authority solely for those purposes.*
- B. *The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is held by a court of competent jurisdiction to be contrary to the constitution of any Member State, a State seeking participation in the Compact, or of the United States, or the applicability thereof to any government, agency, person or circumstance is held to be unconstitutional by a court of competent jurisdiction, the validity of the remainder of this Compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby.*
- C. *Notwithstanding Article 14.B., the Commission may deny a State's participation in the Compact or, in accordance with the requirements of Article 12, terminate a Member State's participation in the Compact, if it determines that a constitutional requirement of a Member State is a material departure from the Compact. Otherwise, if this Compact shall be held to be contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.*

ARTICLE 15. CONSISTENT EFFECT AND CONFLICT WITH OTHER STATE LAWS

- A. *Nothing herein shall prevent or inhibit the enforcement of any other law of a Member State that is not inconsistent with the Compact.*
- B. *Any laws, statutes, regulations, or other legal requirements in a Member State in conflict with the Compact are superseded to the extent of the conflict.*
- C. *All permissible agreements between the Commission and the Member States are binding in accordance with their terms.*

ARTICLE 16. APPLICABILITY OF KENTUCKY STATE GOVERNMENT

In order to clarify the effect of certain provisions of this Compact and to ensure that the rights and responsibilities of the various branches of government are maintained, the following shall be in effect in this state:

- A. *By entering into this Compact, this State authorizes the State Licensing Authority as defined in Article 2.S. of this Compact and as created by KRS Chapter 317A to implement the provisions of this Compact.*
- B. *Notwithstanding any provision of this Compact to the contrary:*
 - 1. *When a rule is adopted pursuant to Article 11 of this Compact, the State Licensing Authority of this State as defined by Article 2.Z. of this Compact shall have sixty (60) days to review the rule for the purpose of filing the rule as an emergency administrative regulation pursuant to KRS 13A.190 and for filing the rule as an accompanying ordinary administrative regulation, following the requirements of KRS Chapter 13A. Failure by the State Licensing Authority of this State as defined by Article 2.Z. of this Compact to promulgate a rule adopted by the Cosmetology Licensure Compact Commission as an administrative regulation pursuant to KRS Chapter 13A shall result in withdrawal as set forth in Article 13 of this Compact. Nothing in these provisions shall negate the applicability of a Commission rule or Article 11 of this Compact to this state.*
 - 2. *If the proposed administrative regulation is found deficient and the deficiency is not resolved pursuant to KRS 13A.330 or 13A.335, the provisions of Article 12 of this Compact shall apply. If the deficiency is resolved in a manner determined by the Commission to be inconsistent with this Compact or its rules, or if the procedures under Article 12 of this Compact fail to resolve an issue, the withdrawal provisions of Article 13 of this Compact shall apply.*
 - 3. *If a court of competent jurisdiction determines that the Cosmetology Licensure Compact Commission created by Article 9 of this Compact exercises its Rulemaking authority in a manner that is beyond*

the scope of the purposes of this Compact, or the powers granted under this Compact, then such an action by the Commission shall be invalid and have no force or effect.

- C. *Article 9.G. of this Compact pertaining to the financing of the Commission shall not be interpreted to obligate the general fund of this State. Any funds used to finance this Compact shall be from money collected pursuant to KRS 317A.080.*
- D. *This Compact shall apply only to those licensed Cosmetologists who practice or work under a Compact privilege.*

Signed by Governor March 22, 2023.

CHAPTER 65

(HB 200)

AN ACT relating to the healthcare workforce, making an appropriation therefor, and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

For the purposes of Sections 1 to 7 of this Act:

- (1) *"Council" means the Council on Postsecondary Education;*
- (2) *"Dedicated funds" means a gift, grant, or donation to the fund that is subject to restrictions imposed by a private grantor under Sections 1 to 7 of this Act;*
- (3) *"Eligible healthcare credential" means:*
 - (a) *A licensed alcohol and drug counselor, licensed clinical alcohol and drug counselor, licensed clinical alcohol and drug counselor associate, professional art therapist, professional art therapist associate license, or community health worker certificate issued pursuant to KRS Chapter 309;*
 - (b) *Any emergency medical services license or certificate issued pursuant to KRS Chapter 311A;*
 - (c) *Any medical imaging, radiation, or other license issued pursuant to KRS Chapter 311B;*
 - (d) *A dental hygienist or dental assistant license issued pursuant to KRS Chapter 313;*
 - (e) *Any nursing license or certificate issued pursuant to KRS Chapter 314 or registration as a state-registered nursing aide with the Kentucky Board of Nursing;*
 - (f) *A respiratory care practitioner certificate issued pursuant to KRS Chapter 314A;*
 - (g) *Any psychology license or certificate issued pursuant to KRS Chapter 319;*
 - (h) *Any occupational therapy license issued pursuant to KRS Chapter 319A;*
 - (i) *Any behavior analyst license issued pursuant to KRS Chapter 319C;*
 - (j) *Any physical therapy certificate or license issued pursuant to KRS Chapter 327; and*
 - (k) *Any social worker, marriage and family therapist, or professional counselor certificate or license issued pursuant to KRS Chapter 335;*
- (4) *"Grantor" means an individual or an entity that gifts, grants, or donates moneys to the Kentucky healthcare workforce investment fund established in Section 2 of this Act;*
- (5) *"Healthcare partner" means a grantor to the Kentucky healthcare workforce investment fund that is:*
 - (a) *A healthcare provider as defined in KRS 367.4081;*
 - (b) *A healthcare facility licensed by and operating in Kentucky;*
 - (c) *A qualified mental health professional as defined in KRS 202A.011; or*

- (d) *Any healthcare or healthcare-related association, individual, or corporation doing business in and incorporated under the laws of the Commonwealth;*
- (6) *"Healthcare program" means an education or training program that is a specific requirement to an eligible healthcare credential, including but not limited to a high school healthcare vocational program;*
- (7) *"Historically underserved county" means a county of the Commonwealth with enhanced workforce demands, as demonstrated by:*
 - (a) *Objective healthcare workforce data that demonstrates needs and demands upon its healthcare workforce that exceed the statewide average; and*
 - (b) *Final unemployment figures calculated by the Department of Workforce Development demonstrating a countywide rate of unemployment that exceeds the statewide unemployment rate of the Commonwealth:*
 - 1. *In the most recent five (5) consecutive calendar years; or*
 - 2. *By two hundred percent (200%) in the most recent calendar year; and*
- (8) *"Kentucky resident" is a Kentucky resident as defined by the council pursuant to KRS 164.020(8).*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *It is the intent of the General Assembly to address Kentucky's persistent shortage of a broad spectrum of certified and licensed healthcare professionals, including nurses, mental health professionals, and emergency medical services professionals, by incentivizing collaboration between healthcare programs, healthcare industry partners, and the Commonwealth to grow and strengthen the education and training pipeline of healthcare professionals within Kentucky to better serve patients across the Commonwealth by:*
 - (a) *Improving the ability of a broad variety of Kentucky's healthcare programs to meet the workforce demands and capacity of the Commonwealth, including the workforce demands of historically underserved counties;*
 - (b) *Raising awareness of and interest in a broad variety of healthcare occupations and reducing the barriers of access to the healthcare programs necessary to pursue these occupations, including financial barriers;*
 - (c) *Increasing knowledge and awareness of opportunities in high-need areas of healthcare, including but not limited to geriatrics and neurology;*
 - (d) *Improving pathways between high school career and technical programs and other healthcare programs; and*
 - (e) *Developing strategies for healthcare organizations to support career growth and development for their employees.*
- (2) *There is hereby created the Kentucky healthcare workforce investment fund to be administered by the council for the purpose of funding:*
 - (a) *Public and private partnerships to provide healthcare training scholarships in accordance with Section 3 of this Act to reduce the financial barriers of Kentucky residents seeking high-demand eligible healthcare credentials;*
 - (b) *Healthcare program incentives in accordance with Section 4 of this Act to reward performance and excellence among the Commonwealth's healthcare programs; and*
 - (c) *The council's administrative, research, consulting, fundraising, planning, and analysis costs of Sections 1 to 7 of this Act.*
- (3) (a) *It is the intent of the General Assembly to encourage private financial and philanthropic support of the Kentucky healthcare workforce investment fund, as the healthcare industry directly benefits from a well-trained workforce capable of meeting its employment needs and the needs of patients. To the extent allowed by applicable laws, the fund may directly accept gifts, grants, or donations subject to restrictions imposed by a grantor.*
- (b) *Notwithstanding KRS 45.229, any moneys appropriated to the fund by the General Assembly remaining in the fund at the end of any fiscal year prior to the 2029-2030 fiscal year shall not lapse.*

- (c) *Any moneys appropriated to the fund by the General Assembly remaining in the fund at the end of the 2029-2030 fiscal year shall be forfeited and shall lapse to the general fund.*
- (d) *Any moneys contributed by grantors remaining in the fund at the end of the 2029-2030 fiscal year shall be returned to each grantor proportionally based on the amount donated by the grantor in relation to the total amount donated by all grantors.*
- (4) *Subject to available funds, the Kentucky healthcare workforce investment fund shall consist of any:*
 - (a) *Appropriations designated for the fund;*
 - (b) *Funds, grants, and receipts from the council's fundraising activities on behalf of the fund; and*
 - (c) *Other moneys made available for the purposes of the fund.*
- (5) *Any interest earnings of the fund shall become a part of the fund and shall lapse only as provided in subsection (3) of this section, except that interest on moneys contributed by a grantor shall not lapse. Moneys in the fund are hereby appropriated for the purposes set forth in this section.*
- (6) *The portion of the fund expended towards the council's costs of administering Sections 1 to 7 of this Act shall not exceed four percent (4%) of all gross moneys in the fund or one million five hundred thousand dollars (\$1,500,000) annually, whichever is less.*
- (7) (a) *The council shall promulgate administrative regulations by July 1, 2023, in accordance with this subsection and KRS Chapter 13A to administer Sections 1 to 7 of this Act.*
 - (b) *At least thirty (30) days before filing an administrative regulation with the regulations compiler, the council shall first submit the draft administrative regulation, a detailed implementation plan, and other documents required to be filed by KRS Chapter 13A to the members of the Interim Joint Committee on Education and the Interim Joint Committee on Health, Welfare, and Family Services for review and comment.*
 - (c) *The council shall consider any comments and recommendations provided by the members of the Interim Joint Committee on Education and the Interim Joint Committee on Health, Welfare, and Family Services before filing the administrative regulation.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *The council shall reserve at least sixty-five percent (65%) of all net moneys in the Kentucky healthcare workforce investment fund for partnership proposals between healthcare programs and healthcare partners to provide healthcare training scholarships to Kentucky residents enrolled in healthcare programs in Kentucky.*
- (2) *In accepting partnerships, the council shall evaluate each partnership proposal to determine if the proposal meets the requirements of this section and administrative regulations promulgated by the council. The administrative regulations shall create a process to prioritize accepting partnerships to proposals:*
 - (a) *Targeted to address the specific needs of a historically underserved county or to improve racial and ethnic diversity within a specific designated healthcare credential targeted by the partnership;*
 - (b) *Targeted to reduce the workforce demand of a specific eligible healthcare credential that is determined by the council, based on objective criteria, to be among the highest in demand in the Commonwealth; or*
 - (c) *From healthcare partners with fifty (50) or fewer employees.*
- (3) *A partnership shall require a written partnership contract between a healthcare program, healthcare partner, and the council. The partnership contract shall:*
 - (a) *Prohibit any disbursement of moneys from the Kentucky healthcare workforce investment fund until the moneys appropriated by the General Assembly to be distributed are matched, at least dollar for dollar, with moneys deposited to the fund by the healthcare partner;*
 - (b) *Require the healthcare program to use all moneys distributed to the healthcare program pursuant to the partnership contract to issue direct healthcare training scholarships to Kentucky students enrolled in the healthcare program;*
 - (c) *If applicable to a healthcare program, require that the healthcare training scholarship application process encourage applicants to complete the Free Application for Federal Student Aid; and*

- (d) *Meet all other requirements set forth in this section and administrative regulation, including but not limited to any reporting requirements to the council.*
- (4) *Disbursements of moneys from the Kentucky healthcare workforce investment fund to support healthcare training scholarships shall be made directly to a healthcare program pursuant to the terms of the partnership contract.*
- (5) *A healthcare program that enters a partnership contract shall solicit, accept, and review healthcare training scholarship applications submitted by students enrolled in the healthcare program. A partnership contract may require that a healthcare program do so in collaboration with the healthcare partner. The healthcare program shall award healthcare training scholarships pursuant to any scholarship criteria set forth in the partnership contract, this section, and administrative regulations. The decisions of the healthcare program in the issuance of scholarships shall be final.*
- (6) *A healthcare training scholarship issued by a healthcare program pursuant to a partnership contract shall be made directly to a recipient pursuant to a written scholarship contract between the recipient and the healthcare program. The scholarship contract shall not restrict the recipient's ability to utilize the scholarship for the total cost of attendance. Each recipient of a scholarship shall:*
- (a) *Agree in the written contract to practice as a licensed or certified medical professional in the Commonwealth for a contract period of one (1) year for each academic year funded by the scholarship up to a maximum of two (2) total years; and*
- (b) *Sign a promissory note as evidence of the scholarship and the obligation to repay the scholarship amount upon failure to complete terms of the contract.*
- (7) *A grantor may place restrictions upon a contribution to the Kentucky healthcare workforce investment fund requiring specific criteria for a healthcare training scholarship or scholarships funded by the grantor's dedicated funds to students who agree in the scholarship contract required by subsection (6)(a) of this section to practice as a certified or licensed healthcare professional, including but not limited to criteria restricting:*
- (a) *Except as provided in subsection (9) of this section, employment by the healthcare partner for the contract period; or*
- (b) *Employment at a location within a designated geographic area of the Commonwealth for the contract period.*
- (8) *The healthcare training scholarship contract shall grant the healthcare program, the Commonwealth, or the healthcare partner the authority to initiate recoupment proceedings for the recovery of the total amount of all healthcare training scholarships awarded to an individual that fails to complete the terms of a contract entered into in accordance with subsection (6) of this section, together with reasonable attorney fees and interest at a compound rate not to exceed eight percent (8%) per annum from the date of disbursement from the fund.*
- (9) *A healthcare training scholarship shall not:*
- (a) *Be awarded to an applicant enrolled in a state registered nursing aide training and competency evaluation program who is:*
1. *Not charged for any portion of the program pursuant to 42 C.F.R. sec. 483.152(c)(1); or*
 2. *Eligible for reimbursement for the costs of the program pursuant to 42 C.F.R. sec. 483.152(c)(2) prior to entering the scholarship contract; or*
- (b) *Include an employment restriction that would restrict the recipient to be employed by a specific healthcare partner for the contract period required by subsection (6) of this section or that would otherwise constitute an offer of employment in accordance with 42 C.F.R. sec. 483.152(c)(1).*
- (10) *An applicant who has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property shall not be eligible for a healthcare training scholarship.*

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

- (1) *The council shall reserve up to thirty-five percent (35%) of all net moneys in the Kentucky healthcare workforce investment fund for healthcare program incentives to reward performance and excellence among eligible healthcare programs. Any appropriation applied towards the amount of a healthcare program*

incentive award shall be matched, at least dollar for dollar, with moneys deposited to the fund by the healthcare partner.

- (2) *The council shall promulgate administrative regulations to establish criteria for issuing healthcare program incentives. The criteria shall consider the following factors:*
- (a) *The workforce demands and capacity for a specific eligible healthcare credential;*
 - (b) *The workforce demands and capacity for a specific eligible healthcare credential within historically underserved counties;*
 - (c) *The percentage of increase over a baseline standard in the number of students completing the healthcare program;*
 - (d) *The passage rate and first-time passage rate of graduates of the healthcare program on the healthcare credential examination; and*
 - (e) *Any other objective factors determined by the council to be relevant to the evaluation of the performance and excellence of the healthcare programs and the ability of the healthcare programs to meet the workforce needs of the communities they serve.*
- (3) (a) *The council, or its designee, shall solicit, accept, and review applications for healthcare program incentives by healthcare programs located in Kentucky. The council, or its designee, shall select the healthcare programs to receive healthcare program incentives and the amount thereof based on the criteria established by this section, administrative regulations, and a grantor of dedicated funds, if applicable.*
- (b) *A healthcare partner that is the grantor of dedicated funds may reserve the right to require the council, or its designee, to collaborate with the healthcare partner in fulfilling the duties assigned under paragraph (a) of this subsection for any healthcare program incentive funded by the grantor's dedicated funds, except an incentive shall not be:*
- 1. *Awarded to a healthcare program that has gifted, granted, or donated any moneys to the fund that are dedicated funds reserved for the purpose of issuing incentives under this section; or*
 - 2. *Restricted to a specific healthcare program or pursuant to criteria which would have the impact of effectively excluding all but a single healthcare program from qualification.*
- (c) *Decisions of the council, or its designee, in these matters shall be final.*
- (4) *The council shall require the healthcare program to submit proof that the entire amount of the incentive is invested in the continued excellence of the program awarded by funding the:*
- (a) *Education, recruitment, and training of the healthcare program's faculty and staff; or*
 - (b) *Maintenance and acquisition of medical equipment utilized by the healthcare program.*

A healthcare program that fails to submit the proof required by the council shall return the entire amount of the incentive to the Kentucky healthcare workforce investment fund.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) *The council shall submit a written report to the Interim Joint Committee on Education, the Interim Joint Committee on Health, Welfare, and Family Services, and the Interim Joint Committee on Appropriations and Revenue Budget Review Subcommittee on Education no later than December 1 of each year. The report shall include:*
- (a) *A detailed summary of the council's costs throughout the year;*
 - (b) *Legislative recommendations to help grow and strengthen the education and training pipeline of healthcare professions within Kentucky;*
 - (c) *A detailed overview of the Kentucky healthcare workforce investment fund, including an accounting of all moneys raised and expended;*
 - (d) *A detailed analysis of healthcare training scholarships awarded pursuant to Section 3 of this Act, including but not limited to:*
 - 1. *The criteria used to award the scholarships;*

2. *The number of scholarships awarded and the amount of each scholarship;*
 3. *An overview of the demographic information of scholarship recipients, including the county of residence;*
 4. *The names of the healthcare programs with scholarship recipients and the type of eligible healthcare credential corresponding to each program; and*
 5. *To extent available, student and program outcomes, including but not limited to:*
 - a. *Graduation rates of the healthcare program overall and of scholarship recipients as compared to an established baseline within any such program;*
 - b. *Employment and employment retention rates of the healthcare program overall and scholarship recipients; and*
 - c. *The workforce participation of program graduates practicing in Kentucky under an eligible healthcare credential in relation to the workforce demand and capacity for that specific eligible healthcare credential; and*
- (e) *A detailed analysis of the number of the healthcare program incentives awarded pursuant to Section 4 of this Act, including but not limited to:*
1. *The criteria used by the council to award the incentives;*
 2. *The number of incentives awarded;*
 3. *The name of each healthcare program that received an incentive, the corresponding eligible healthcare credential, and the amount of the incentive; and*
 4. *The qualifications of each healthcare program that received an incentive in relation to the criteria identified by the council for awarding the incentives.*
- (2) *If the report required by subsection (1) of this section is not filed by December 14 of each year, or a later date approved by the Interim Joint Committee on Education and the Interim Joint Committee on Health, Welfare, and Family Services, any appropriations to the fund shall be forfeited and any remaining moneys in the fund appropriated by the General Assembly shall lapse to the general fund. The council shall return any remaining private moneys to its grantor, prorated as necessary.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Each public postsecondary education institution shall review the cost of its healthcare programs, as defined in Section 1 of this Act, in relation to the realistic earning potential and employability of the institution's graduates and submit a written report to the Interim Joint Committees on Health, Welfare, and Family Services and Education no later than September 1 of each year. The report shall include:

- (1) *The current tuition of each healthcare program at the institution for in-state and out-of-state students;*
- (2) *The student capacity of each healthcare program;*
- (3) *The number of total applications for enrollment, in-state applications for enrollment, and out-of-state applications for enrollment for each healthcare program;*
- (4) *The total number of students, in-state students, and out-of-state students admitted to each healthcare program;*
- (5) *The minimum number of years required to complete the healthcare program and the average number of years graduates of each healthcare program were enrolled;*
- (6) *The average amount of student loans of the graduates of each healthcare program;*
- (7) *The graduation rate of each healthcare program and the graduation rate of in-state and out-of-state students;*
- (8) *The passage rate and first-time passage rate of graduates of each healthcare program on the healthcare credential examination;*
- (9) *The employment rate of graduates of each healthcare program within twelve (12) months after graduation; and*

(10) A summary of all new actions taken by the institution during the reporting year to reduce the financial barriers to healthcare professions.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 7 of this Act shall expire on and have no force or effect after June 30, 2030, unless extended by an act of the General Assembly.

➔Section 8. The General Assembly hereby encourages public postsecondary education institutions to prioritize students enrolled in the institution's healthcare programs when awarding institutional scholarships.

➔Section 9. In the event the Legislative Research Commission dissolves the Interim Joint Committee on Health, Welfare, and Family Services and establishes another interim joint committee with jurisdiction over health services, the reviser of statutes shall change the name of the Interim Joint Committee on Health, Welfare, and Family Services in Sections 2, 5, and 6 of this Act to that interim joint committee.

➔Section 10. Whereas the General Assembly recognizes the urgent need to address the ability of the Kentucky healthcare workforce to meet the needs of patients across the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 22, 2023.

CHAPTER 66

(HB 320)

AN ACT relating to commercial driver's licenses.

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

➔Section 1. KRS 281A.160 is amended to read as follows:

- (1) (a) Except as provided in subsection (4) of this section, the State Police shall be responsible for administering both the knowledge and skills test required by KRS 281A.130.
- (b) Applicants who fail the written knowledge test shall be permitted to retake the written test on the next day the tests are administered. Applicants who fail the written test six (6) times shall be required to wait three (3) days before taking the knowledge test again. Applicants who subsequently fail the written test three (3) additional times shall be required to wait three (3) days prior to retaking the test.
- (2) (a) Except as provided for in subsection (3) of this section, at the time a CDL permit is issued:
 1. An applicant who has held a Kentucky operator's license for thirty (30) days or longer shall pay a skills-testing fee of fifty dollars (\$50); and
 2. An applicant who has held a Kentucky operator's license for less than thirty (30) days shall pay a skills-testing fee of one hundred fifty dollars (\$150).
- (b) ***A person applying under subsection (8) of this section shall pay a skills-testing fee of one hundred fifty dollars (\$150).***
- (c) There is created within the State Treasury a trust fund to be known as the State Police CDL skills-testing fund. The fund shall be administered by the State Police and shall receive all skills-testing and retesting fees collected under subsections (2)(a) **and (b)** and (6)(e) of this section, in addition to any grants, gifts, or appropriations of state or federal moneys and any interest earned on moneys in the fund. Moneys in the fund shall not lapse and shall be carried forward to the next succeeding fiscal year. The State Police CDL skills-testing fund shall be used by the State Police to contract with and train civilian CDL skills examiners and to improve the logistics of the CDL skills-testing process.
- ~~(d)(e)~~ The State Police, upon request of an applicant who has passed both the vision and knowledge tests, may schedule the applicant for the skills test at the first available test date at a test site designated by the State Police but not less than fourteen (14) days after the applicant has filed the application and been issued a CDL permit. Except in extenuating circumstances, a retest for a failed portion of the skills test shall be given within three (3) days of a request of a retest.

- ~~(e)~~(d) An applicant shall provide a class representative commercial vehicle, for the class of CDL for which the applicant is testing, in which to take the skills test. Unless the State Police grant an exemption at the time the application for testing is made, the vehicle supplied under this paragraph shall be unloaded. Upon arrival for the skills test, the applicant shall have in his or her possession a valid Kentucky operator's license and a valid CDL permit. A CDL-licensed driver who is at least twenty-one (21) years old shall accompany the applicant at all times the applicant is in operation of a commercial vehicle.
- (3) A testing fee shall not be charged to:
- (a) An individual applying for a CDL with an "S" endorsement as defined in KRS 281A.170; or
 - (b) Military personnel applying for a CDL under KRS 281A.165.
- (4) The State Police may authorize a third party to administer the skills test specified by this section if:
- (a) The test is the same that would otherwise be administered by the state; and
 - (b) The third party has entered into an agreement with this Commonwealth which complies with requirements of Title 49, Code of Federal Regulations, Part 383.75, as adopted by the Transportation Cabinet.
- (5) The State Police shall promulgate administrative regulations under KRS Chapter 13A that establish procedures that ensure an arm's-length relationship is maintained between a third-party tester and any owner, officer, or employee of any program offering commercial truck driving under the Kentucky Community and Technical College System or a proprietary school licensed under KRS Chapter 165A.
- (6) (a) Applicants shall be permitted to take the skills test for a particular class vehicle an unlimited number of times; however, an applicant shall not retest more than one (1) time in any twenty-four (24) hour period.
- (b) The skills test shall consist of three (3) separate portions: pre-trip inspection, basic maneuvering, and road skills. An applicant must achieve a score of at least eighty percent (80%) on each portion of the skills test before a CDL may be issued to the applicant. An applicant who passes one (1) or more portions of the skills test but does not pass all portions of the skills test shall retest only on those portions of the skills test the applicant failed.
- (c) An applicant who fails any portion of the skills test four (4) times shall be notified by the State Police that the applicant is required to wait one (1) week before retaking a portion of this skills test again.
- (d) Failure of an applicant to notify the State Police at least forty-eight (48) hours prior to missing an appointment for a skills test, or provide a written medical excuse from a licensed physician, advanced registered nurse practitioner, or physician's assistant, shall be considered a failure, on all parts of the skills test scheduled to be given, for the purposes of determining number of failures, waiting periods, and retesting fees under paragraphs (c) and (e) of this subsection for individual applicants. The fees for a missed appointment failure shall be forfeited and retained in the State Police CDL skills-testing fund established under this section. If the forty-eight (48) hour notice or medical excuse is given, the fee shall be applied to the rescheduled test. A missed appointment failure under this paragraph shall not be reported as a failure to the board.
- (e) Except as provided for in paragraph (d) of this subsection, at the time of application for a retest under this subsection, the applicant shall pay a retesting fee of fifty dollars (\$50).
- (7) (a) An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of less than one (1) year shall pay the reinstatement fee as prescribed by KRS 281A.150(7) and shall receive his or her commercial driver's license with all endorsement and restrictions that were in effect at the time of suspension. An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of one (1) year or more shall submit to the skills, knowledge, and vision tests.
- (b) Subject to paragraphs (c) and (d) of this subsection, a person who possessed a Kentucky commercial driver's license that has expired for a period of less than five (5) years and was not subject to suspension, withdrawal, revocation, or disqualification for any reason at the time of expiration may have that license reinstated, with all endorsements, without submitting to the skills and knowledge tests by applying to the cabinet for renewal. Upon submission of medical certification, driver self-certifications required under KRS 281A.140(1)(f), successful completion of any necessary criminal

background check, and review of the person's driving history record, the cabinet shall issue a renewal CDL, with all endorsements, to an applicant under this paragraph.

- (c) A person who otherwise meets the requirements of paragraph (b) of this subsection whose CDL was subject to suspension or revocation solely for failure to provide medical certification may apply for renewal of a CDL under paragraph (b) of this subsection.
- (d) If the CDL held by a person who otherwise meets the requirements of paragraph (b) of this subsection carried a hazardous materials endorsement, and the applicant wishes to retain that endorsement, he or she shall complete any examinations required for a hazardous materials endorsement renewal in KRS 281A.180(2) prior to renewing the CDL under paragraph (b) of this subsection.
- (8) *An applicant who is not a resident of the Commonwealth, possesses both a valid operator's license and a commercial driver's instruction permit, and has complied with all necessary federal requirements may take a commercial driver's license skills test under this section.*
- (9) (a) The commissioner of the Department of Kentucky State Police shall promulgate administrative regulations pursuant to the provisions of KRS Chapter 13A to implement the provisions of this section.
- (b) The State Police shall promulgate administrative regulations under KRS Chapter 13A to set forth the qualifications for contract examiners retained under subsection (2)(c)~~(b)~~ of this section.

Signed by Governor March 22, 2023.

CHAPTER 67

(SB 54)

AN ACT relating to Kentucky educational excellence scholarships.

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

➔Section 1. 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) *"Approved workforce solutions training program" means a local high-demand work sector training program that is approved by the authority and is offered by the Kentucky Community and Technical College System through consultation with representatives of the local workforce development area and the local Kentucky Community and Technical College System campus where the program will be offered;*
 - (d) *"Eligible college of art and design" means a college that:*
 1. *Qualifies as a tax exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code;*
 2. *Is conditionally or unconditionally licensed by the Council on Postsecondary Education;*
 3. *Is a candidate for accreditation by a regional accrediting association recognized by the United States Department of Education;*
 4. *Has its main campus physically located in Kentucky;*
 5. *Limits its degree program offerings to the area of fine arts; and*
 6. *Does not qualify as a participating institution as defined in KRS 164.7874;*
 - (e) "Eligible student" means an eligible high school student who has graduated from high school or a student eligible under KRS 164.7879(3)(e);
 - (f) *"Proprietary school" means a school that:*

1. *Is licensed by the Kentucky Commission on Proprietary Education;*
 2. *Has operated for at least five (5) years;*
 3. *Has its headquarters or main campus physically located in Kentucky; and*
 4. *Does not qualify as a participating institution under KRS 164.7874(20);*
- (g) ***"Qualified proprietary school program" means a program offered by a proprietary school that is in the field of agriculture as defined in KRS 246.010 or is in one (1) of Kentucky's top five (5) high-demand work sectors as determined by the Kentucky Workforce Innovation Board;***
- (h)~~(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 Board;
- (i)~~(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 Cabinet;
- (j)~~(f)~~ "Related instruction" has the same meaning as in KRS 343.010; and
- (k)~~(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;
 - (c) ***Enrolled in a qualified proprietary school program;***
 - (d) ***Enrolled in an approved workforce solutions training program; or***
 - (e) ***Enrolled in an eligible college of art and design.***
- (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 ***or, for the academic year beginning July 1, 2023, an eligible student enrolled in a qualified proprietary school program, an approved workforce solutions training program, or an eligible college of art and design,*** may receive reimbursement of tuition, books, required tools, and other approved expenses required for participation in the program, upon certification by the sponsor, ***school, or college*** 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, ***qualified proprietary school program, or approved workforce solutions 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 Cabinet and the Kentucky Economic Development Cabinet.

➔Section 2. KRS 164.7879 is amended to read as follows:

- (1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
2.50	\$125.00	3.30	\$325.00
2.60	\$150.00	3.40	\$350.00
2.70	\$175.00	3.50	\$375.00
2.75	\$187.00	3.60	\$400.00
2.80	\$200.00	3.70	\$425.00
2.90	\$225.00	3.75	\$437.00
3.00	\$250.00	3.80	\$450.00
3.10	\$275.00	3.90	\$475.00
3.20	\$300.00	4.00	\$500.00
3.25	\$312.00		

The authority shall review the base amount of the Kentucky educational excellence scholarship each academic year and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the authority.
- (b) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The authority shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.
- (c) 1. Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874 and the requirement that a student graduate from a Kentucky high school, a high school student who completes the KEES curriculum while attending an accredited out-of-state high school or Department of Defense school may apply the grade point average for any applicable academic year toward the base as described in paragraph (a) of this subsection and shall also qualify for a supplemental award under subsection (3) of this section when:
- His or her custodial parent or guardian is in active service of the Armed Forces of the United States;~~and~~
 - The ~~custodial parent or guardian maintained Kentucky as the home of record at the time the~~ student attended an accredited out-of-state high school or a Department of Defense school *as a result of the custodial parent's or guardian's military transfer outside of Kentucky; and*

c. *The student earned a KEES base amount at a Kentucky high school prior to the custodial parent's or guardian's military transfer outside of Kentucky.*

2. The student or parent shall arrange for the out-of-state school to report the student's grade point average each academic year and the student's highest ACT score to the authority as required under KRS 164.7885. The authority shall promulgate administrative regulations implementing the requirements in this paragraph, including:
 - a. The documentation that the parent shall submit to the authority establishing the student's eligibility for the scholarship; and
 - b. The assurances that an out- of state institution shall submit to the authority for submission of the student grade point average.
3. The provisions in this paragraph shall apply to the 2001-2002 school year and thereafter.

(d) Beginning with the 2013-2014 academic year, a student who meets the Kentucky core academic standards for high school graduation established in administrative regulation and graduates after completing three (3) years of high school shall receive a Kentucky educational excellence scholarship award equivalent to completing high school in four (4) years. The award shall be determined by dividing the total actual KEES scholarship earned under subsection (1) of this section by three (3) and multiplying that number by four (4). The resulting number shall be the annual award the student is eligible for under subsection (1) of this section.

- (3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Annual Bonus	ACT Score	Annual Bonus
15	\$21	22	\$171
16	\$43	23	\$193
17	\$64	24	\$214
18	\$86	25	\$236
19	\$107	26	\$257
20	\$129	27	\$279
21	\$150	28 or above	\$300

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

- (b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Amount	ACT Score	Amount
15	\$36	22	\$286
16	\$71	23	\$321
17	\$107	24	\$357
18	\$143	25	\$393
19	\$179	26	\$428
20	\$214	27	\$464

21 \$250 28 and above \$500

The authority shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (c) Beginning with the 2008-2009 academic year, the authority shall commit to provide a supplemental award for achievement on examinations for Advanced Placement or International Baccalaureate as defined in KRS 164.002 to an eligible high school student whose family was eligible for free or reduced-price lunch for any year during high school enrollment.
 - 1. The supplemental award for AP examination scores are as follows:
 - a. Two hundred dollars (\$200) for each score of three (3);
 - b. Two hundred fifty dollars (\$250) for each score of four (4); and
 - c. Three hundred dollars (\$300) for each score of five (5).
 - 2. The supplemental award for IB examination scores are as follows:
 - a. Two hundred dollars (\$200) for each score of five (5);
 - b. Two hundred fifty dollars (\$250) for each score of six (6); and
 - c. Three hundred dollars (\$300) for each score of seven (7).
- (d) Beginning with the 2013-2014 academic year, the authority shall commit to provide a supplemental award for achievement on examinations for Cambridge Advanced International as defined in KRS 164.002 to an eligible high school student whose family was eligible for free or reduced-priced lunch for any year during high school enrollment. The supplemental award for Cambridge Advanced International examination scores are as follows:
 - 1. Two hundred dollars (\$200) for each score of "e";
 - 2. Two hundred fifty dollars (\$250) for each score of "c" or "d"; and
 - 3. Three hundred dollars (\$300) for each score of "a*", "a", or "b".
- (e) The authority shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a High School Equivalency Diploma within five (5) years of their high school graduating class, and students under subsection (2)(c) of this section who do not attend an accredited high school.

Signed by Governor March 22, 2023.

CHAPTER 68

(HB 32)

AN ACT relating to classified school staff and declaring an emergency.

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

➔Section 1. 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 *or her* 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 *or she* 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 *or she* holds at least a high school diploma or high school certificate of completion or High School Equivalency Diploma, or *is provided an opportunity by the school district upon employment to obtain*~~he shows progress toward obtaining~~ a High School Equivalency Diploma *at no cost to the employee. Licenses or credentials issued by a government entity that require specialized skill or training may also substitute for this requirement*~~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 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 2. Whereas recruiting and retaining classified staff in schools is crucial to the success, health, and financial well-being of all citizens of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 22, 2023.

CHAPTER 69

(SB 101)

AN ACT relating to peace officer contracts.

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

➔Section 1. KRS 16.050 is amended to read as follows:

- (1) The commissioner shall appoint or promote to the ranks and grades and positions of the department such officers as are considered by him or her to be necessary for the efficient administration of the department. The Kentucky State Police shall conduct a biennial salary survey, and the findings of the salary survey shall be included in the department's budget request submitted to the Kentucky General Assembly.
- (2) All initial appointments of officers to the department shall be made for merit and fitness after a competitive examination.
- (3) There is created a Department of Kentucky State Police Personnel Board consisting of the commissioner and four (4) other members to be appointed by the Governor, two (2) to be appointed from each of the two (2) major political parties.
- (4) The initial appointment of members of the board shall be for terms of one (1), two (2), three (3), and four (4) years. Thereafter each appointment shall be for a term of four (4) years, except that a person appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed for the remainder of that term.
- (5) Members of the board may be removed by the Governor only for cause, after being given a copy of charges against them and an opportunity to be heard publicly on such charges before the Governor.
- (6) The board shall elect one (1) of its members chairman. It shall meet at such time and place as shall be specified by call of the commissioner. Three (3) members shall constitute a quorum for the transaction of business. Members of the board other than the commissioner shall receive compensation of fifty dollars (\$50) and reimbursement of travel expenses for each meeting of the board which they attend.
- (7) The board shall promulgate administrative regulations to carry out the purposes herein, which shall include provisions for:
 - (a) Open competitive examination as to fitness of applicants for employment as officers; and
 - (b) Establishment of eligible lists as a result of such competitive examinations, from which lists vacancies shall be filled.

- (8) The board shall hear appeals from applicants for employment for which examinations are being given or have been conducted and from eligibles on examination registers subject to the procedural rules which the board may adopt pursuant to the provisions of this section.
- (9) (a) ~~[\del{Prior to appointment as} A Cadet Trooper[\del{,}]] **appointed on or after the effective date of this Act,**[\del{all applicants}] shall agree in writing that if, within **five (5)**[\del{three (3)}] years of completing the basic training course offered by the department, he or she accepts employment as a peace officer with another law enforcement agency, or accepts employment with another type of agency or entity in a position that requires law enforcement training to meet the qualifications for the position, he or she will repay to the department the cost incurred by the department in providing training to the officer to the extent repayment has not been made by the agency with which the officer accepts employment under paragraph (b) or (c) of this subsection.~~
- (b) If the officer accepts employment as a peace officer with another state agency or a state university or educational institution within Kentucky within three (3) years of completing the basic training course offered by the department, the agency, university, or educational institution shall reimburse the department for costs incurred in providing training to the officer.
- (c) If the officer accepts employment with a city, county, or other local law enforcement agency within Kentucky within **five (5)**[\del{three (3)}] years of completing the basic training course offered by the department, KRS 70.290 shall apply as well, ~~[\del{except that the amount of the reimbursement shall not be prorated as provided in KRS 70.290}].~~

➔Section 2. KRS 70.290 is amended to read as follows:

- (1) (a) City and county law enforcement agencies, including sheriff's offices, may, as a condition of employment, require a newly appointed deputy sheriff or peace officer who will participate in the Kentucky Law Enforcement Foundation Fund Program, authorized by KRS 15.410 to 15.510, to enter into an employment contract for a period of no longer than **five (5)**[\del{three (3)}] years from the date of graduation from the Department of Criminal Justice Training, or other training approved by the Kentucky Law Enforcement Council.
- (b) If a deputy sheriff or peace officer who has entered into a contract authorized under this subsection accepts employment as a peace officer with another law enforcement agency, ***including a local school board that has established a police department under KRS 158.471***, that law enforcement agency shall reimburse the law enforcement agency that initially hired the deputy sheriff or peace officer for the actual costs incurred and expended by the law enforcement agency that initially hired the deputy sheriff or peace officer which are associated with the initial hiring of that officer, including but not limited to the application process, training costs, equipment costs, salary and fringe benefits. The law enforcement agency that initially hired the deputy sheriff or peace officer shall be reimbursed for the costs from the time of the deputy sheriff or peace officer's initial application until graduation from the Department of Criminal Justice Training.
- (c) 1. For contracts entered into before June 29, 2017, the amount of reimbursement authorized by this subsection shall be prorated based upon the percentage of time that the deputy sheriff or peace officer completed of his or her employment contract. The amount of reimbursement authorized by this subsection after the pro rata amount is calculated shall be reduced by the cost of the training provided by the Department of Criminal Justice Training for the subject officer.
2. For contracts entered into on or after June 29, 2017, the amount of reimbursement authorized by this subsection shall not be prorated, and shall be for the full amount as calculated in paragraph (b) of this subsection.
- (2) If a peace officer, ***including a university police officer***, who has been employed by a state law enforcement agency for **five (5)**[\del{three (3)}] years or less accepts employment as a peace officer with a city or local law enforcement agency, ***including a local school board that has established a police department under KRS 158.471***, that city or local law enforcement agency shall reimburse the state law enforcement agency that initially hired the peace officer for the costs expended with the initial hiring of that officer, including but not limited to the application process, training costs, equipment costs, salary and fringe benefits. The state law enforcement agency that initially hired the peace officer shall be reimbursed for the costs incurred and expended from the time of the peace officer's initial application until graduation from a Kentucky Law Enforcement Council approved training academy. ~~[\del{The amount of reimbursement authorized by this subsection shall be prorated based upon the percentage of time that the peace officer has been employed}].~~

➔Section 3. KRS 150.090 is amended to read as follows:

- (1) The commissioner shall appoint, promote, or take other employment actions to the ranks, grades, and positions of the department conservation officers who are considered by the commissioner to be necessary for the efficient administration of the department.
- (2) Conservation officers appointed by the commissioner shall have full powers as peace officers for the enforcement of all of the laws of the Commonwealth, including the administrative regulations promulgated pursuant to KRS Chapters 150 and 235 and to serve process.
- (3) Each conservation officer is individually vested with the powers of a peace officer and shall have in all parts of the state the same powers with respect to criminal matters and enforcement of the laws relating thereto as sheriffs, constables, and police officers in their respective jurisdictions, and shall possess all the immunities and matters of defense now available or hereafter made available to sheriffs, constables, and police officers in any suit brought against them in consequence of acts done in the course of their employment and within the scope of their duties. Any warrant of arrest may be executed by any officer of the department.
- (4) Conservation officers charged with the enforcement of this chapter and the administrative regulations issued thereunder shall have the right to go upon the land of any person or persons whether private or public for the purpose of the enforcement of laws or orders of the department relating to game or fish, while in the normal, lawful and peaceful pursuit of such investigation or work or enforcement, may enter upon, cross over, be upon, and remain upon privately owned lands for such purposes, and shall not be subject to arrest for trespass while so engaged or for such cause thereafter. They may arrest on sight, without warrant, any person detected by them in the act of violating any of the provisions of this chapter. They shall have the same rights as sheriffs to require aid in arresting with or without process any person found by them violating any of the provisions of this chapter and may seize without process anything declared by this chapter to be contraband. No liability shall be incurred by any person charged or directed in the enforcement of this chapter.
- (5) Conservation officers and other officers charged with the enforcement of this chapter, shall have the authority to call for and inspect the license or tag, bag or creel of any person engaged in any activity for the performance of which a license is required under this chapter, and shall also have the authority to take proper identification of any person, or hunter, or fisherman who is actually engaged in any of these activities, and to call for and inspect any and all firearms and any other device that may be used in taking wildlife and is in the possession of any person so engaged.
- (6) No person shall resist, obstruct, interfere with or threaten or attempt to intimidate or in any other manner interfere with any officer in the discharge of his duties under the provisions of this chapter. This subsection shall not apply to a criminal homicide or an assault upon such officer. An assault upon such officer shall be deemed an offense under KRS Chapter 507 or 508, as appropriate.
- (7) ***The commissioner may, as a condition of employment, require a newly appointed department conservation officer to enter into an employment contract for a period of no longer than five (5) years from the date of appointment. If a department conservation officer who entered into a contract authorized under this subsection accepts employment as a peace officer with another law enforcement agency, that law enforcement agency shall reimburse the department for the actual costs incurred and expended by the department that are associated with the initial hiring of that department conservation officer, including but not limited to the application process, training costs, equipment costs, salary, and fringe benefits. The department shall be reimbursed for the costs from the time of department conservation officer initial application until appointment.***

➔Section 4. KRS 158.477 is amended to read as follows:

- (1) The local board of education may provide for the appointment or promotion to the ranks and grades and positions of the department officers and civilians as are considered by the board to be necessary for the efficient administration of the department. The officers and civilians shall receive compensation as shall be fixed and paid by the board.
- (2)
 - (a) ***The local board of education may, as a condition of employment, require a newly appointed department officer to enter into an employment contract for a period of no longer than five (5) years from the date of appointment.***
 - (b) ***If a department officer who entered into a contract authorized under this subsection accepts employment as a peace officer with another law enforcement agency, that law enforcement agency shall reimburse the local board of education that initially hired the department officer for the actual***

costs incurred and expended by the local board of education that are associated with the initial hiring of that department officer, including but not limited to the application process, training costs, equipment costs, salary, and fringe benefits. The local board of education that initially hired the department officer shall be reimbursed for the costs from the time of the department officer's initial application until appointment.

➔Section 5. KRS 183.881 is amended to read as follows:

- (1) Safety and security officers so appointed shall be peace officers and conservators of the peace. They shall have general police powers to arrest, without process, all persons who within their view commit any crime or misdemeanor. They shall possess all of the common law and statutory powers, privileges, and immunities of sheriffs, except that they shall be empowered to serve civil process to the extent authorized by the employing airport board. Without limiting the generality of the foregoing, such safety and security officers are hereby specifically authorized and empowered, and it shall be their duty:
 - (a) To preserve the peace, maintain order and prevent unlawful use of force or violence or other unlawful conduct on the airport facility of their respective airport board, and to protect all persons and property located thereon from injury, harm and damage;
 - (b) To enforce, and to assist officials of their respective airport boards in the enforcement of the lawful rules and regulations of said airport board, and to assist and cooperate with the law enforcement agencies and officers.

Provided, however, that such safety and security officers shall exercise the powers herein granted upon any real property owned or occupied by their respective airport boards including the streets passing through and adjacent thereto. Said powers may be exercised in any county of the Commonwealth where the airport board owns, uses, or occupies property. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency in which such property is located, dependent upon the jurisdiction involved.

- (2) Safety and security officers may exercise their powers away from the locations described in subsection (1) of this section only upon the following conditions:
 - (a) When in hot pursuit of an actual or suspected violator of the law;
 - (b) When authorized to do so pursuant to the agreement authorized by subsection (1) of this section;
 - (c) When requested to act by the chief of police of the city or county in which the airport board's property is located;
 - (d) When requested to act by the sheriff of the county in which the airport board's property is located;
 - (e) When requested to act by the commissioner of the Department of Kentucky State Police;
 - (f) When requested to act by the authorized delegates of those persons or agencies listed in paragraph (c), (d), or (e) of this subsection;
 - (g) When requested to assist a state, county, or municipal police officer, sheriff, or other peace officer in the performance of his or her lawful duties; or
 - (h) When operating under an interlocal cooperation agreement pursuant to KRS Chapter 65.
- (3) Safety and security officers appointed pursuant to KRS 183.110 and 183.880 to 183.886 shall have, in addition to the other powers enumerated herein, the power to conduct investigations anywhere in this Commonwealth, provided such investigation relates to criminal offenses which occurred on property owned, leased, or controlled by the airport board. Where desirable and at the discretion of the airport board's police officials, the airport board's safety and security department may coordinate said investigations with any law enforcement agency of this Commonwealth or with agencies of the federal government.
- (4) Safety and security departments created and operated by the airport boards shall, for all purposes, be deemed public police departments and the sworn safety and security officers thereof are, for all purposes, deemed public police officers.
- (5) Nothing in KRS 183.110 and 183.880 to 183.886 shall be construed as a diminution or modification of the authority or responsibility of any city or county police department, the Department of Kentucky State Police, sheriff, constable granted police powers, or other peace officer either on the property of an airport board or

otherwise. Nor shall anything in KRS 183.110 and 183.880 to 183.886 be construed as a diminution or modification of the authority or responsibility of any constable.

- (6) (a) *Public airport boards may, as a condition of employment, require a newly appointed safety and security officer who will participate in the Kentucky Law Enforcement Foundation Program Fund, authorized by KRS 15.410 to 15.510, to enter into an employment contract for a period of no longer than five (5) years from the date of graduation from the Department of Criminal Justice Training or other training approved by the Kentucky Law Enforcement Council.*
- (b) *If a safety and security officer who entered into a contract authorized under this subsection accepts employment as a peace officer with another law enforcement agency, that law enforcement agency, including a local school board that has established a police department under KRS 158.471, shall reimburse the law enforcement agency that initially hired the safety and security officer for the actual costs incurred and expended by the law enforcement agency that initially hired the safety and security officer that are associated with the initial hiring of that officer, including but not limited to the application process, training costs, equipment costs, salary, and fringe benefits. The law enforcement agency that initially hired the safety and security officer shall be reimbursed for the costs from the time of the safety and security officer's initial application until graduation from the Department of Criminal Justice Training.*

➔Section 6. A Cadet Trooper appointed prior to the effective date of this Act who agreed in writing that, if within three years of completing the basic training course offered by the department, he or she accepts employment as a peace officer with another law enforcement agency or accepts employment with another type of agency or entity in a position that requires law enforcement training to meet qualifications for the position, is responsible for reimbursing the department the cost incurred by the department in providing training to the officer to the extent repayment has not been made by the agency with which the officer accepts employment under subsection (9) of Section 1 of this Act.

Signed by Governor March 23, 2023.

CHAPTER 70

(HB 172)

AN ACT relating to barbering.

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

➔Section 1. KRS 317.450 is amended to read as follows:

- (1) (a) The board shall issue an apprentice license to practice barbering to any person who:
1. Is at least seventeen and one-half (17-1/2) years of age;
 2. Is of good moral character and temperate habit;
 3. Possesses a high school diploma, a High School Equivalency Diploma, or a transcript from an issuing institution that is recognized by the educational authority in the state from which the diploma, certificate, or transcript is issued;
 4. Has graduated from a licensed school of barbering;
 5. Has satisfactorily passed the apprentice examination prescribed by the barber board, which shall include a practical assessment of the applicant's skills, including but not limited to a taper haircut, shampoo, straight razor facial shave, facial, and a chemical application; and
 6. Has paid a fee as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A.
- (b) A barber shall serve an apprentice period of at least six (6) months but not more than nine (9) months of continuous service from the effective date of the license issued pursuant to paragraph (a) of this subsection.

- (c) In addition to the grounds for disciplinary action specified in KRS 317.590, the board may, during the apprentice period, require a licensee to retake any part or all of the written or practical examination, or both.
 - (d) At the end of the apprentice period, the board shall issue a license to practice barbering to an apprentice licensee who has:
 - 1. Satisfactorily passed the barber examination prescribed by the board by administrative regulations promulgated in accordance with KRS Chapter 13A; and
 - 2. Complied with all other requirements of this subsection.
 - (e) The board may issue a barber license by endorsement to a resident of another state, district, or territory within the United States of America upon payment of a fee as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A, and upon submission of satisfactory evidence that the requirements for licensure in the other state are substantially equivalent to the requirements of this state at the time of application. In the absence of the required equivalency, an applicant from another state, district, or territory within the United States of America, shall show proof of three (3) years or more experience immediately before making application and be currently licensed and in good standing with the state, district, or territory in which he or she is licensed. The board may also require an applicant under this section to pass a written and practical examination to establish equivalency.
- (2) The board shall:
- (a) Issue a license to operate a barber shop to any barber licensed under the provisions of this chapter upon application and payment of a fee as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A;
 - (b) Refuse to issue the license upon a failure of the licensed barber to comply with the provisions of this chapter or the administrative regulations promulgated by the board;
 - (c) Allow the licensed owner of a barber shop, which is licensed under this chapter, to rent or lease space in his or her barber shop to an independent contract owner; and
 - (d) Allow an unlicensed owner of a barber shop to rent or lease space in his or her barber shop to an independent contract owner, only if the shop owner has a licensed barber as a manager of the shop at all times. If the owner, manager, or location of a barber shop changes, the required form and fee shall be submitted to the board.
- (3) The board shall issue a license to operate a school of barbering to any person, firm, or corporation who or which:
- (a) Applies for a license upon forms furnished by the board;
 - (b) Has the equipment and facilities that may be required by administrative regulations promulgated by the board;
 - (c) Has furnished adequate evidence to the board that:
 - 1. There is an intent to establish a bona fide school for the education and training of competent barbers; and
 - 2. A sufficient number of teachers licensed by the board will be employed to conduct the school, including at least one (1) teacher with a minimum of *twelve (12)*~~thirty-six (36)~~ months' experience teaching in a barber school that includes administrative experience; and
 - (d) Pays a fee as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A.
- (4) The board shall issue a student permit to any person enrolled in a licensed barber school upon payment of a fee as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A.
- (5) The board shall issue a license to teach barbering to any person who:
- (a) Is of good moral character and temperate habit;
 - (b) Possesses a high school diploma or a High School Equivalency Diploma;

- (c) Has been a Kentucky-licensed and practicing barber for at least eighteen (18) months;
 - (d) Has satisfactorily passed the examination prescribed by the board by promulgation of administrative regulations; and
 - (e) Has paid a fee as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A.
- (6) The board shall issue a license to any barber who holds an independent contract owner's license who:
- (a) Is of good moral character and temperate habit;
 - (b) Possesses a high school diploma or a High School Equivalency Diploma;
 - (c) Is a licensed and practicing barber under this chapter; and
 - (d) Has paid a fee as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A.
- (7) The board shall issue a demonstration charity event permit to any licensed barber who pays a fee as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A.
- (8) Applications for examination required in this section shall be accompanied by an examination fee as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A.
- (9) (a) On and after July 1, 2016, a license issued pursuant to this section shall expire on the first day of July next following the date of its issuance. A license shall be renewed on June 1 through July 1 of each year.
- (b) Any license shall automatically be renewed by the board:
1. Upon receipt of the application for renewal or duplicate renewal application form and the required annual renewal license fee submitted either in person or via written or electronic means; and
 2. If the applicant for renewal is otherwise in compliance with the provisions of this chapter and the administrative regulations of the board.
- (10) The annual renewal license fee for each type of license renewal shall be as established in administrative regulations promulgated by the board in accordance with KRS Chapter 13A.
- (11) (a) The fee per year for the renewal of an expired license, if the period of expiration does not exceed five (5) years, shall be as established by administrative regulations promulgated by the board in accordance with KRS Chapter 13A.
- (b) An applicant who fails to renew a license within five (5) years of its expiration shall comply with the requirements for relicensure established by the board through promulgation of administrative regulations in accordance with KRS Chapter 13A.

Signed by Governor March 23, 2023.

CHAPTER 71

(HB 506)

AN ACT relating to post-retirement options for state and local employees.

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

➔Section 1. KRS 61.635 is amended to read as follows:

- (1) Each member shall have the right to elect to have his or her retirement allowance payable under any one (1) of the options set forth in this section in lieu of the retirement allowance otherwise payable to the member upon retirement under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852. The amount of any optional retirement allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member.

- (2) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his or her lifetime and have the retirement allowance continued after the member's death to his or her beneficiary during the lifetime of the person.
- (3) Survivorship sixty-six and two-thirds percent (66-2/3%). The member may elect to receive a decreased retirement allowance during his or her lifetime and have two-thirds (2/3) of the retirement allowance continue after the member's death to his or her beneficiary during the lifetime of the person.
- (4) Survivorship fifty percent (50%). The member may elect to receive a decreased retirement allowance during his or her lifetime and have one-half (1/2) of the retirement allowance continued after the member's death to his or her beneficiary during the lifetime of the person.
- (5) Life with ten (10) years certain. The member less than age seventy-six (76) may elect to receive a monthly retirement allowance during his or her lifetime which shall guarantee payments for one hundred twenty (120) months. If the member dies before receiving payments for one hundred twenty (120) months, the member's beneficiary shall receive the remaining payments monthly, for the duration of the one hundred twenty (120) months' period. However, if the trust is designated as beneficiary, the trustee of the trust may elect to receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments, or the trustee may elect to continue the remaining monthly payments to the trust of the member. If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.
- (6) Life with fifteen (15) years certain. The member less than age sixty-eight (68) may elect to receive a monthly retirement allowance during his or her lifetime which shall guarantee payments for one hundred eighty (180) months. If the member dies before receiving payments for one hundred eighty (180) months, the member's beneficiary shall receive the remaining payments monthly for the duration of the one hundred eighty (180) months' period. However, if the trust is designated as beneficiary, the trustee of the trust may elect to receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments, or the trustee may elect to continue the remaining payments to the trust of the member. If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.
- (7) Life with twenty (20) years certain. The member less than age sixty-two (62) may elect to receive a monthly retirement allowance during his or her lifetime which shall guarantee payments for two hundred forty (240) months. If the member dies before receiving payments for two hundred forty (240) months, the member's beneficiary shall receive the remaining payments for the duration of the two hundred forty (240) months period. However, if the trust is beneficiary, the trustee of the trust may elect to receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments, or the trustee may elect to continue the remaining payments to the trust of the member. If the estate is designated as beneficiary, the estate shall receive a lump-sum payment which shall be the actuarial equivalent to the remaining payments.
- (8) Social Security adjustment options. These options shall be available to any member who has not attained age sixty-two (62) as follows:
 - (a) No survivor rights. The member may elect to receive an increased retirement allowance from his or her effective retirement date through the month he or she attains age sixty-two (62) at which time his retirement allowance shall be decreased for the remainder of his or her lifetime;
 - (b) Survivor rights. The member may elect to receive an increased retirement allowance from his or her effective retirement date through the month he attains age sixty-two (62) based on the option payable under subsection (2) of this section, if the retirement allowance shall be decreased in the month following the month he or she attains age sixty-two (62), or the month following the month he or she would have attained age sixty-two (62), in event of the member's death, and have the retirement allowance continue after the member's death to his or her beneficiary during the lifetime of the person.
- (9) Beneficiary Social Security adjustment option. This option is available to the beneficiary of a deceased member if the beneficiary, who is a person, has not attained age sixty (60), and is eligible to receive Social Security payments at age sixty (60). The beneficiary may elect to receive during his or her lifetime an increased retirement allowance based on his or her annual benefit payable for life. The payment shall begin on his or her effective retirement date and continue through the month he or she attains age sixty (60) at which time his or her retirement allowance shall be decreased for the remainder of his or her lifetime.
- (10) Pop-up option. The member may elect to receive a decreased retirement allowance during his or her lifetime and have the retirement allowance continued after the member's death to his or her beneficiary during the lifetime of the person. If the beneficiary dies prior to the member, or if the beneficiary is the member's spouse

and they divorce, the member's retirement allowance shall increase to the amount that would have been payable as a single life annuity.

- (11) Actuarial equivalent refund. A member who began participating in the system prior to January 1, 2014, may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable for a period of sixty (60) months under KRS 61.595 (1).
- (12) Partial lump-sum option.
- (a) No survivor rights. A member~~[retiring on or before January 1, 2009,]~~ may elect to receive a one-time lump-sum payment equal to twelve (12), twenty-four (24), ~~for thirty-six (36),~~ **forty-eight (48), or sixty (60)** monthly retirement allowances payable under the applicable retirement formula for the system and receive a reduced monthly retirement allowance payable for his or her lifetime. The lump-sum payment shall be paid in the month the first monthly retirement allowance is payable.
- (b) Survivor rights. A member~~[retiring on or before January 1, 2009,]~~ may elect to receive a one-time lump-sum payment equal to twelve (12), twenty-four (24), ~~for thirty-six (36),~~ **forty-eight (48), or sixty (60)** monthly retirement allowances payable under subsection (2) of this section and receive a reduced monthly retirement allowance payable for his or her lifetime. The lump-sum payment shall be paid in the month the first monthly retirement allowance is payable. The reduced retirement allowance shall be continued after the member's death to his or her beneficiary during the lifetime of the person.
- (c) *In order to explain the partial lump-sum option to members, the Authority shall:*
1. *Provide, for all retirement estimates that include the partial lump-sum option, including estimates calculated by a member using an automatic estimator available on the Authority's website, the additional months of service a member would have to be employed in order to recoup the actuarial reduction in his or her monthly retirement allowance from selecting a partial lump-sum option at each payment level; and*
 2. *Prepare and make available to all members and participating employers in the form of a paper or electronic pamphlet or booklet a summary of the partial lump-sum option, written in a manner that can be understood by the average member and sufficiently accurate and comprehensive to reasonably apprise them of the benefits and potential consequences, including federal tax consequences, of taking a partial lump-sum option.*
- (13) The other provisions of this section notwithstanding, the beneficiary of a retired member of the General Assembly shall, after the member's death, receive sixty-six and two-thirds percent (66-2/3%) of the member's retirement allowance during his or her lifetime if the member of the General Assembly began participating in the system prior to January 1, 2014, and has elected this option and has made contributions in accordance with subsection (14) of this section and of KRS 61.560. The retirement allowance of the retired member of the General Assembly shall not be actuarially reduced to provide for this survivor benefit.
- (14) A member of the General Assembly who began participating in the system prior to January 1, 2014, who wishes to obtain the survivorship option specified in subsection (13) of this section shall so notify the Kentucky Public Pensions Authority:
- (a) Within thirty (30) days after first becoming a member of the General Assembly if he or she is not a member of the General Assembly on July 15, 1980; or
- (b) Within thirty (30) days after July 15, 1980, if he or she is a member of the General Assembly on July 15, 1980.
- (15) The system shall forward to members of the General Assembly a form on which a member who began participating in the system prior to January 1, 2014, may elect the option provided for in subsections (13) and (14) of this section.
- (16) The options described in subsections (2), (3), (4), (8)(b), (10), (12)(b), and (13) of this section shall be extended to the member only if the designated beneficiary is a person.

➔Section 2. KRS 61.637 is amended to read as follows:

- (1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his or her retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he or she anticipates that he or she

will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

- (2) Employer and employee contributions shall be made as provided in KRS 61.510 to 61.705 and 78.510 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar (\$1), and the member shall be credited with additional service credit.
- (3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.
- (4)
 - (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his or her estate, if he or she does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.
 - (b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his or her period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment.
 - (c) If the retired member is not eligible to be paid suspended payments for his or her period of reemployment as an employee, his or her retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:
 1. The retired member's final compensation shall be recomputed using creditable compensation for his or her period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his or her retirement allowance was last determined;
 2. If the retired member initially retired on or subsequent to his or her normal retirement date, his or her retirement allowance shall be recomputed by using the formula in KRS 61.595(1);
 3. If the retired member initially retired prior to his or her normal retirement date, his or her retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his or her age at the time of his or her initial retirement increased by the number of months of service credit earned for service performed during reemployment;
 4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. of this paragraph. The member shall not receive less in benefits as a result of the recomputation than he or she was receiving prior to reemployment or would receive as determined under KRS 61.691; and
 5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.
- (5) A retired member, or his or her estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his or her estate may repay the lesser of the total amount of payments which were not suspended or fifty cents (\$0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar (\$1) for every three dollars (\$3) earned if over age sixty-five (65).
- (6)
 - (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095.
 - (b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his or her retirement by reimbursing the system in the full amount of his or her retirement allowance payments received.

- (7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.
- (b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems or County Employees Retirement System prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.
- (8) If a retired member accepts employment or begins serving as a volunteer with an employer participating in the systems administered by Kentucky Retirement Systems or County Employees Retirement System within twelve (12) months of his or her retirement date, the retired member shall notify the Authority and the participating employer shall submit the information required or requested by the Authority to confirm the individual's employment or volunteer status. The retired member shall not be required to notify the Authority regarding any employment or volunteer service with a participating agency that is accepted after twelve (12) months following his or her retirement date.
- (9) If the retired member is under a contract to provide services as an independent contractor or leased employee to an employer participating in the systems administered by Kentucky Retirement Systems or County Employees Retirement System within twelve (12) months of his or her retirement date, the member shall submit a copy of that contract to the Authority, and the Authority shall determine if the member is an independent contractor or leased employee for purposes of retirement benefits. The retired member and the participating employer shall submit the information required or requested by the Authority to confirm the individual's status as an independent contractor or leased employee. The retired member shall not be required to notify the Authority regarding any services entered into as an independent contractor or leased employee with a participating agency that the employee enters into after twelve (12) months following his or her retirement date.
- (10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him or her prior to his or her voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.
- (11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his or her initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his or her retirement, and the member shall repay to the retirement system all benefits received for the month.
- (b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.
- (12) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his or her previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he or she retired and for the position in which he or she has been reemployed.
- (b) The job descriptions and statements of duties shall be filed with the retirement office.

- (13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:
- (a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination;
 - (b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems or County Employees Retirement System under reciprocity, including medical insurance benefits, that the member received after reemployment began;
 - (c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his or her initial retirement account shall no longer be suspended, and the member shall receive the amount to which he or she is entitled, including an increase as provided by KRS 61.691;
 - (d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him or her in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account; and
 - (e) Upon termination, the retired member shall be entitled to benefits payable from his or her second retirement account.
- (14) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he or she retired, the retired member shall continue to receive his or her retirement allowance.
- (b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.
- (15) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.
- (b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.
- (16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he or she was eligible to purchase prior to his or her initial retirement.
- (17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this section, the following shall apply to retired members who are reemployed by an agency participating in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System on or after September 1, 2008:
- (a) ~~Except as provided by paragraphs (c) and (d) of this subsection,~~ If a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System, or has filed the forms required to receive a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System, and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System or is employed in a position that is not considered regular full-time with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System within **one (1) month**~~three (3) months~~ following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:
 1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System, and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- (b) ~~Except as provided by paragraphs (c) and (d) of this subsection,~~ If a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System after a **one (1) month**~~three (3) month~~ period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
1. If a member is reemployed by a participating agency within twelve (12) months of the member's retirement date, the participating agency shall certify in writing on a form prescribed by the Authority that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position as the elected official held prior to retirement and takes office within twelve (12) months of his or her retirement date, he or she shall be deemed by the Authority as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer. Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;
 2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;
 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565, 61.702, and 78.635, as applicable, on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and
 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium. Effective July 1, 2015, local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year;
- (c) ~~If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System:~~
1. ~~The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System, and employer contributions shall be paid on behalf of the member by the participating employer; and~~

- ~~2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;~~
- ~~(d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:~~
- ~~1. If a member is reemployed by a participating agency within twelve (12) months of the member's retirement date, the participating agency shall certify in writing on a form prescribed by the Authority that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If an elected official is reelected to a new term of office in the same position as the elected official held prior to retirement and takes office within twelve (12) months of his or her retirement date, he or she shall be deemed by the Authority as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided. If the participating agency fails to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer. Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;~~
 - ~~2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;~~
 - ~~3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 61.565, 61.702, and 78.635, as applicable, on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems;~~
 - ~~4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium;~~
- ~~(e) Notwithstanding paragraphs (a) and (b) [to (d)] of this subsection, a retired member who qualifies as a volunteer for an employer participating in one (1) of the systems administered by Kentucky Retirement Systems or County Employees Retirement System and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) and (b) [to (d)] of this subsection if:~~
- ~~1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer in which the retired member is performing volunteer services;~~
 - ~~2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;~~
 - ~~3. The retired member has not purchased or received service credit under any of the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and~~
 - ~~4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twelve (12) months following the retired member's most recent retirement date.~~

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services and both the retired member and the participating employer shall be subject to paragraphs (a) **and** (b) ~~to (d)~~ of this subsection for the period of volunteer service;

~~(d)~~~~(f)~~ Notwithstanding any provision of this section, any mayor or member of a city legislative body shall not be required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the systems administered by Kentucky Retirement Systems or subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body if the mayor or member of a city legislative body:

1. Has not participated in the County Employees Retirement System prior to retirement, but is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System; or
2. Has been or is participating in the County Employees Retirement System and is at least sixty-two (62) years of age. If a mayor or member of a city legislative body who is at least sixty-two (62) years of age retires from the systems administered by Kentucky Retirement Systems but remains in office after his or her effective retirement date, the mayor or member of the city legislative body shall not accrue any further service credit or benefits in the systems administered by Kentucky Retirement Systems for any employment occurring on or after the effective retirement date;

~~(e)~~~~(g)~~ Notwithstanding any provision of this section, any current or future part-time adjunct instructor for the Kentucky Fire Commission who has not participated in the Kentucky Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the County Employees Retirement System, shall not be:

1. Required to resign from his or her position as a part-time adjunct instructor for the Kentucky Fire Commission in order to begin drawing benefits from the County Employees Retirement System; or
2. Subject to any provision of this section as it relates solely to his or her service as a part-time adjunct instructor for the Kentucky Fire Commission;

~~(f)~~~~(h)~~ If a member is receiving a retirement allowance from any of the retirement systems administered by the Kentucky Retirement Systems or County Employees Retirement System and enters into a contract or becomes a leased employee of an employer under contract with an employer participating in one (1) of the systems administered by the Kentucky Retirement Systems or County Employees Retirement System:

1. At any time following retirement, if the Authority determines the employment arrangement does qualify as an independent contractor or leased employee, the member may continue to receive his or her retirement allowance during the period of the contract;
2. Within **one (1) month** ~~three (3) months~~ following the member's initial retirement date, if the Authority determines the employment arrangement does not qualify as an independent contractor or leased employee, the member's retirement shall be voided in accordance with paragraph (a) of this subsection;
3. After **one (1) month** ~~three (3) months~~ but within twelve (12) months following the member's initial retirement, if the Authority determines the employment arrangement does not qualify as an independent contractor or leased employee and that a prearranged agreement existed between the member and the agency for the member to return to work with the agency, the member's retirement shall be voided in accordance with paragraph (a) of this subsection; and
4. After a twelve (12) month period following the member's initial retirement, the member may continue to receive his or her retirement allowance during the period of the contract and the member shall not be required to notify the system or submit any documentation for purposes of this section to the system.

The initiation of a contract or the initial date of the leased employment of a retired member by a participating agency that occurs after twelve (12) months or more following the retired member's retirement date shall not constitute a prearranged agreement under this subsection; and

~~(g)(+)~~ The Authority shall issue a final determination regarding a certification of the absence of a prearranged agreement or the retired member's qualification as an independent contractor or leased employee as required under this section no later than thirty (30) days after the retired member and participating employer provide all required forms and additional information required by the Authority.

- (18) The Authority shall promulgate administrative regulations to implement the requirements of this section, including incorporating by reference board-prescribed forms that a retired member and participating agency shall provide the systems under subsections (8), (9), and (17) of this section.

➔Section 3. KRS 78.5540 is amended to read as follows:

- (1) A retired member whose disability retirement was discontinued pursuant to KRS 78.5528 and who is reemployed by an employer participating in the system or the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations.
- (2) (a) If a retired member accepts employment or begins serving as a volunteer with an employer participating in the systems administered by Kentucky Retirement Systems or the County Employees Retirement System within twelve (12) months of his or her retirement date, the retired member shall notify the Authority and the participating employer shall submit the information required or requested by the Authority to confirm the individual's employment or volunteer status. The retired member shall not be required to notify the Authority regarding any employment or volunteer service with a participating agency that is accepted after twelve (12) months following his or her retirement date.
- (b) If the retired member is under a contract to provide services as an independent contractor or leased employee to an employer participating in the systems administered by Kentucky Retirement Systems or the County Employees Retirement System within twelve (12) months of his or her retirement date, the member shall submit a copy of that contract to the Authority, and the Authority shall determine if the member is an independent contractor or leased employee for purposes of retirement benefits. The retired member and the participating employer shall submit the information required or requested by the Authority to confirm the individual's status as an independent contractor or leased employee. The retired member shall not be required to notify the Authority regarding any services entered into as an independent contractor or leased employee with a participating agency that the employee enters into after twelve (12) months following his or her retirement date.
- (3) Retired members of the County Employees Retirement System who returned to work with an employer that participates in the County Employees Retirement System or Kentucky Retirement Systems prior to September 1, 2008, shall be governed by the provisions of KRS 61.637(1) to (16).
- (4) The following shall apply to retired members of the County Employees Retirement System who are reemployed on or after September 1, 2008, by an agency participating in the systems administered by the County Employees Retirement System or the Kentucky Retirement Systems:
- (a) ~~Except as provided by paragraphs (c) and (d) of this subsection,~~ If a retired member is receiving a retirement allowance from the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the County Employees Retirement System, and is employed in a regular full-time position required to participate in the County Employees Retirement System or **one (1) of the systems administered by** the Kentucky Retirement Systems or is employed in a position that is not considered regular full-time with an employer participating in the County Employees Retirement System or **in one (1) of the systems administered by** the Kentucky Retirement Systems within **one (1) month**~~three (3) months~~ following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the system all benefits received, including any health insurance benefits. If the retired member is returning to work in a regular full-time position required to participate in the County Employees Retirement System:
1. The member shall contribute to a member account established for him or her in the County Employees Retirement System or **in one (1) of the systems administered by** the Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer to the system; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;
- (b) ~~Except as provided by paragraphs (c) and (d) of this subsection,~~ If a retired member is receiving a retirement allowance from the County Employees Retirement System and is employed in a regular full-time position required to participate in the County Employees Retirement System or ***in one (1) of the systems administered by*** the Kentucky Retirement Systems after a ***one (1) month***~~[three (3) month]~~ period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:
1. If a member is reemployed by a participating employer within twelve (12) months of the member's retirement date, the participating employer shall certify in writing on a form prescribed by the Authority that no prearranged agreement existed between the employee and employer prior to the employee's retirement for the employee to return to work with the participating employer. If the participating employer fails to complete the certification or the Authority determines a prearranged agreement exists, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer. For purposes of this paragraph:
 - a. If an elected official is reelected to a new term of office in the same position as the elected official held prior to retirement and takes office within twelve (12) months of his or her retirement date, he or she shall be deemed by the Authority as having a prearranged agreement; and
 - b. Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;
 2. Notwithstanding any other provision of KRS Chapter 78 to the contrary, the member shall not contribute to the system and shall not earn any additional benefits for any work performed during the period of reemployment;
 3. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 78.5536 and 78.635 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the system; and
 4. Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the system for the cost of the health insurance premium paid by the system to provide coverage for the retiree, not to exceed the cost of the single premium. Effective July 1, 2015, local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year;
- (c) ~~If a member is receiving a retirement allowance from hazardous position coverage with the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the County Employees Retirement System for service in a hazardous position, and is employed in a regular full-time hazardous position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems:~~
1. ~~The member shall contribute to a member account established for him or her in the County Employees Retirement System or the Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and~~
 2. ~~Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;~~

- (d) ~~If a member is receiving a retirement allowance from the hazardous position coverage with the County Employees Retirement System and is employed in a regular full time hazardous position required to participate in the County Employees Retirement System or the Kentucky Retirement Systems after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:~~
1. ~~If a member is reemployed by a participating employer within twelve (12) months of the member's retirement date, the participating employer shall certify in writing on a form prescribed by the Authority that no prearranged agreement existed between the employee and employer prior to the employee's retirement for the employee to return to work with the participating employer. If the participating employer fails to complete the certification or the Authority determines a prearranged agreement exists, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer. For purposes of this paragraph:~~
 - a. ~~If an elected official is reelected to a new term of office in the same position as the elected official held prior to retirement and takes office within twelve (12) months of his or her retirement date, he or she shall be deemed by the Authority as having a prearranged agreement; and~~
 - b. ~~Employment that is accepted by the retired member after twelve (12) months following the member's retirement date shall not constitute a prearranged agreement under this paragraph;~~
 2. ~~Notwithstanding any other provision of KRS Chapter 78 to the contrary, the member shall not contribute to the system or the Kentucky Retirement Systems and shall not earn any additional benefits for any work performed during the period of reemployment;~~
 3. ~~Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall pay employer contributions as specified by KRS 78.5536 and 78.635 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the system; and~~
 4. ~~Except as provided by KRS 70.291 to 70.293, 95.022, and 164.952 and except for any retiree employed as a school resource officer as defined by KRS 158.441, the employer shall be required to reimburse the system for the cost of the health insurance premium paid by the system to provide coverage for the retiree, not to exceed the cost of the single premium;~~
- (e) ~~Notwithstanding paragraphs (a) and (b) to (d) of this subsection, a retired member who qualifies as a volunteer for an employer participating in the County Employees Retirement System or the Kentucky Retirement Systems and who is receiving reimbursement of actual expenses, a nominal fee for his or her volunteer services, or both, shall not be considered an employee of the participating employer and shall not be subject to paragraphs (a) and (b) to (d) of this subsection if:~~
1. Prior to the retired member's most recent retirement date, he or she did not receive creditable compensation from the participating employer in which the retired member is performing volunteer services;
 2. Any reimbursement or nominal fee received prior to the retired member's most recent retirement date has not been credited as creditable compensation to the member's account or utilized in the calculation of the retired member's benefits;
 3. The retired member has not purchased or received service credit under any of the provisions of KRS 78.510 to 78.852 for service with the participating employer for which the retired member is performing volunteer services; and
 4. Other than the status of volunteer, the retired member does not become an employee, leased employee, or independent contractor of the employer for which he or she is performing volunteer services for a period of at least twelve (12) months following the retired member's most recent retirement date.

If a retired member, who provided volunteer services with a participating employer under this paragraph violates any provision of this paragraph, then he or she shall be deemed an employee of the participating employer as of the date he or she began providing volunteer services and both the retired member and the participating employer shall be subject to paragraphs (a) and (b) to (d) of this subsection for the period of volunteer service;

~~(d)~~~~(f)~~ Notwithstanding any provision of this section, any mayor or member of a city legislative body shall not be required to resign from his or her position as mayor or as a member of the city legislative body in order to begin drawing benefits from the systems administered by the Kentucky Retirement Systems or the County Employees Retirement System or subject to any provision of this section as it relates solely to his or her service as a mayor or member of the city legislative body, if the mayor or member of a city legislative body:

1. Has not participated in the County Employees Retirement System prior to retirement, but is otherwise eligible to retire from the Kentucky Employees Retirement System or the State Police Retirement System; or
2. Has been or is participating in the County Employees Retirement System and is at least sixty-two (62) years of age. If a mayor or member of a city legislative body who is at least sixty-two (62) years of age retires from the systems administered by Kentucky Retirement Systems or the County Employees Retirement System but remains in office after his or her effective retirement date, the mayor or member of the city legislative body shall not accrue any further service credit or benefits in the systems administered by Kentucky Retirement Systems or the County Employees Retirement System for any employment occurring on or after the effective retirement date;

~~(e)~~~~(g)~~ Notwithstanding any provision of this section, any current or future part-time adjunct instructor for the Kentucky Fire Commission who has not participated in the Kentucky Employees Retirement System prior to retirement, but who is otherwise eligible to retire from the County Employees Retirement System, shall not be:

1. Required to resign from his or her position as a part-time adjunct instructor for the Kentucky Fire Commission in order to begin drawing benefits from the County Employees Retirement System; or
2. Subject to any provision of this section as it relates solely to his or her service as a part-time adjunct instructor for the Kentucky Fire Commission;

~~(f)~~~~(h)~~ If a member is receiving a retirement allowance from the County Employees Retirement System and enters into a contract or becomes a leased employee of an employer under contract with an employer participating in the County Employees Retirement System or **one (1) of the systems administered by** the Kentucky Retirement Systems:

1. At any time following retirement, if the Authority determines the employment arrangement does qualify as an independent contractor or leased employee, the member may continue to receive his or her retirement allowance during the period of the contract;
2. Within **one (1) month**~~three (3) months~~ following the member's initial retirement date, if the Authority determines the employment arrangement does not qualify as an independent contractor or leased employee, the member's retirement shall be voided in accordance with paragraph (a) of this subsection;
3. After **one (1) month**~~three (3) months~~ but within twelve (12) months following the member's initial retirement, if the Authority determines the employment arrangement does not qualify as an independent contractor or leased employee and that a prearranged agreement existed between the member and the agency for the member to return to work with the agency, the member's retirement shall be voided in accordance with paragraph (a) of this subsection; and
4. After a twelve (12) month period following the member's initial retirement, the member may continue to receive his or her retirement allowance during the period of the contract and the member shall not be required to notify the Authority or submit any documentation for purposes of this section to the Authority. The initiation of a contract or the initial date of the leased employment of a retired member by a participating agency that occurs after twelve (12) months or more following the retired member's retirement date shall not constitute a prearranged agreement under this subsection;

~~(g)~~~~(i)~~ The Authority shall issue a final determination regarding a certification of the absence of a prearranged agreement or the retired member's qualification as an independent contractor or leased employee as required under this section no later than thirty (30) days after the retired member and

participating employer provide all required forms and additional information required by the Authority; and

~~(h)~~~~(j)~~ Retired members of one (1) of the systems administered by Kentucky Retirement Systems who are reemployed by an employer in the County Employees Retirement System on or after September 1, 2008, shall not be eligible to earn a second retirement account in the County Employees Retirement System for his or her service to the employer.

- (5) The Authority shall promulgate administrative regulations to implement the requirements of this section, including incorporating by reference Authority-prescribed forms that a retired member and participating agency shall provide the systems under subsections (1) and (4) of this section.
- (6) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095. A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his or her retirement by reimbursing the system in the full amount of his or her retirement allowance payments received.

➔Section 4. This Act takes effect on January 1, 2024.

Signed by Governor March 23, 2023.

CHAPTER 72

(SB 192)

AN ACT relating to investor-owned electric utilities.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

In addition to the definitions in KRS 278.010, except KRS 278.010(3)(a), which shall apply unless they conflict with or the context otherwise requires, as used in Sections 1 to 15 of this Act:

- (1) *"Ancillary agreement" means a bond, insurance policy, letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, hedging arrangement, liquidity or credit support arrangement, or other financial arrangement entered into in connection with securitized bonds;*
- (2) *"Assignee" means a legally-recognized entity to which an electric utility assigns, sells, or transfers, other than as security, all or a portion of its interest in or right to securitized property. The term "assignee" includes a corporation, limited liability company, general or limited partnership, public authority, trust, and financing entity to which an assignee assigns, sells or transfers, other than as security, its interest in or right to securitized property;*
- (3) *"Bondholder" means a person who holds a securitized bond;*
- (4) *"Code" means the Uniform Commercial Code, KRS Chapter 355;*
- (5) *"Deferred costs" means costs that have occurred but will be accounted for as part of a regulatory asset;*
- (6) *"Financing costs" include the following:*
 - (a) *Interest and acquisition, defeasance, or redemption premiums payable on securitized bonds;*
 - (b) *Any payment required under an ancillary agreement and any amount required to fund or replenish a reserve account or other accounts established under the terms of any indenture, ancillary agreement, or other financing document pertaining to securitized bonds;*
 - (c) *Any other cost related to issuing, supporting, repaying, refunding, or servicing securitized bonds, including the following fees and costs without limitation:*
 1. *Servicing fees, accounting and auditing fees, trustee fees, consulting fees, structuring adviser fees, financial advisor fees, administrative fees, placement and underwriting fees, independent*

- director and manager fees, rating agency fees, stock exchange listing and compliance fees, security registration fees, and filing fees;*
2. *Capitalized interest and information technology programming costs; and*
 3. *Any other costs necessary to otherwise ensure the timely payment of securitized bonds or other amounts or charges payable in connection with the bonds, including costs related to obtaining the financing order;*
- (d) *Any taxes and license fees or other fees imposed on the revenues generated from the collection of the securitized surcharge or otherwise resulting from the collection of securitized surcharges, in any such case whether paid, payable, or accrued;*
- (e) *Any state or local taxes, franchise taxes, gross receipts, and other taxes or similar charges, including commission assessment fees, whether paid, payable, or accrued; and*
- (f) *Any costs associated with performance of the commission's responsibilities under Sections 1 to 15 of this Act in connection with:*
1. *Approving, approving subject to conditions, or rejecting an application for a financing order; and*
 2. *Retaining counsel, one (1) or more financial advisors, or other consultants as deemed appropriate by the commission and paid pursuant to Sections 1 to 15 of this Act, for the issuance advice letter process;*
- (7) *"Financing order" means an order issued by the commission that authorizes the:*
- (a) *Issuance of securitization bonds;*
 - (b) *Imposition, collection, and periodic adjustment of a securitized surcharge;*
 - (c) *Creation of securitized property; and*
 - (d) *Sale, assignment, or transfer of securitized property to an assignee;*
- (8) *"Financing party" means bondholders and trustees, collateral agents, any party under an ancillary agreement, or any other person acting for the benefit of bondholders;*
- (9) *"Financing statement" has the same meaning as in KRS 355.9-102;*
- (10) *"Formula-based true-up mechanism" means a reconciliation or true-up process that is used to identify over collection or under collection of the securitized surcharge;*
- (11) *"Issuance advice letter" means a letter from the utility to the commission that describes the final terms and conditions for the bond issuance, including but not limited to the actual structure of the bond issue, pricing, and other bond features such as coupon rates, redemption, and call provisions, and current market conditions affecting the bond issuance;*
- (12) *"Nonbypassable" means the payment of a securitized utility charge may not be avoided by any existing or future retail customer including special contract customers;*
- (13) *"Pledgee" means a financing party to which an electric utility or its successors or assignees mortgages, negotiates, pledges, or creates a security interest or lien on all or any portion of its interest in or right to securitized property;*
- (14) *"Regulatory asset" means, under the standardized financial accounting standards adopted by the commission, expenses that have been authorized by the commission to be capitalized for consideration of recovery in future rates that would otherwise be treated as an expense in a current accounting period;*
- (15) *"Retired generation costs" means:*
- (a) *Pretax costs with respect to retired or abandoned facilities that are included as deferred costs subject to an application for a financing order and include but are not limited to:*
 1. *The undepreciated investment in the retired or abandoned electric generating facility and in any facilities ancillary thereto or used in conjunction therewith;*
 2. *Costs of decommissioning and restoring the site of the electric generating facility;*
 3. *Other applicable capital and operating costs; and*

4. *Accrued carrying charges and deferred costs;*
- (b) *Reduced by:*
1. *Insurance, scrap, and salvage proceeds;*
 2. *Applicable unamortized regulatory liabilities for excess deferred income taxes; and*
 3. *The present value of return on all accumulated deferred income taxes related to pretax costs with respect to a retired or abandoned facility and related facilities, including those due to bonus and accelerated tax depreciation and abandonment losses; and*
- (c) *Added to pretax costs the electric utility has previously incurred related to the retirement or abandonment of an electric generating facility and related facilities offering before the effective date of this Act including costs associated with:*
1. *The decommissioning and restoration of the site; and*
 2. *Environmental compliance related to the operation and retirement of the electric generating facility;*
- (16) *"Securitization" means a structured process where interests in debt instruments or other receivable income are packaged, underwritten, and sold as asset-backed marketable securities such as bonds;*
- (17) *"Securitized bonds" means bonds, debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership, or other evidences of indebtedness or ownership that have a maturity date as determined reasonable by the commission, but not later than thirty (30) years from the issue date, that are issued by an electric utility or assignee pursuant to a financing order, the proceeds of which are used directly or indirectly to recover, finance, or refinance capitalized cost assets and financing costs that are secured by or payable from securitized utility property;*
- (18) *"Securitized costs" include retired generation costs, as well as the unamortized book value of extraordinary storm costs or other deferred costs associated with prior incurrences, but does not include ongoing utility investments or operating costs;*
- (19) *"Securitized property" means:*
- (a) *All rights and interests of a utility, its successor, or assignee under a financing order, including the right to impose, bill, charge, collect, and receive securitized surcharges authorized under the financing order and to obtain periodic adjustments to those charges authorized under Sections 1 to 15 of this Act and as provided in the financing order; and*
 - (b) *All revenues, collections, claims, rights to payments, payments, moneys, or proceeds arising from the rights and interests specified in the financing order, regardless of whether those revenues, collections, claims, rights to payment, payments, moneys, or proceeds are imposed, billed, received, collected, or maintained together with or commingled with other revenues, collections, rights to payment, payments, moneys, or proceeds;*
- (20) *"Securitized surcharge" means the amounts authorized by the commission to repay, finance, or refinance securitized costs and financing costs that are, except as otherwise provided for in Sections 1 to 15 of this Act:*
1. *Nonbypassable and imposed on, and are a part of, all retail customer bills;*
 2. *Collected, in full and separate from the utility's tariffed rates, special contract rates or other mechanisms by an electric utility or by its successors, assignees, or collection agents; and*
 3. *Paid by all existing or future retail customers receiving electrical service from the electric utility or its successors or assignees under commission-approved rate schedules even if a retail customer elects to purchase electricity from an alternative electricity supplier following a fundamental change in regulation of public utilities in the Commonwealth; and*
- (21) *"Utility" has the same meaning as in KRS 278.010(3)(a) but shall not include any utility organized under KRS Chapter 279.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *An electric utility may apply to the commission for a financing order to finance extraordinary or other deferred costs from previous events for regulatory assets existing and with a value calculated on June 30, 2023, as:*
- (a) *Greater than two hundred million dollars (\$200,000,000) for a single regulatory asset; or*
 - (b) *Having a cumulative total value of greater than two hundred and seventy-five million (\$275,000,000) for multiple regulatory assets.*
- (2) *An application for a financing order shall include:*
- (a) *A description of the deferred costs the utility is seeking to securitize. If more than fifty percent (50%) of the deferred costs are retired generation costs, the application also shall describe:*
 - 1. *The electric generating facility or facilities that have been retired; and*
 - 2. *A copy of all previous commission orders related to the deferral of costs applicable to the retirement or abandonment of the facility or facilities;*
 - (b) *The dollar amount of the deferred costs;*
 - (c) *A statement of whether the electric utility proposes to finance all or a portion of deferred costs using securitized bonds. If the electric utility proposes to finance a portion of the costs, the electric utility shall identify the specific portion of the deferred costs in the application. By electing not to finance all or any portion of deferred costs using securitized bonds, an electric utility shall not be deemed to waive its right to reflect those costs in its retail rates pursuant to a separate proceeding with the commission. However, at no point shall the electric utility apply to securitize less than the amounts prescribed in subsection (1) of this section;*
 - (d) *An estimate of the financing costs related to the securitized bonds;*
 - (e) *An estimate of the securitized surcharges necessary to recover the securitized costs and financing costs and the period for recovery of the costs;*
 - (f) *A comparison between the net present value of the costs to ratepayers that are estimated to result from the issuance of securitized bonds and the cost that would result from an alternative means of providing for the full recovery of and return on those securitized costs from customers, using the utility's current or expected weighted average cost of capital. The comparison should demonstrate that the issuance of securitized bonds and the imposition of securitized surcharges are expected to provide quantifiable net present value benefits to customers;*
 - (g) *A proposed future ratemaking process to reconcile any differences between securitized costs financed by securitized bonds and the final securitized costs incurred by the electric utility, successor, or assignee, provided that any reconciliation shall not affect the amount of securitized bonds or the associated securitized surcharges paid by customers; and*
 - (h) *Testimony supporting the application.*
- (3) *The commission shall not accept for filing an application tendered pursuant to this section after December 31, 2024.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *Proceedings on an application submitted pursuant to Section 2 of this Act shall begin with the filing of an application by an electric utility and shall be disposed of in accordance with the requirements of this section and the rules and administrative regulations promulgated by the commission, except as follows:*
- (a) *The commission shall establish a procedural schedule that requires that not later than one hundred eighty (180) days after the application is filed:*
 - 1. *A decision approving the application, approving the application subject to conditions, or denying the application is issued; and*
 - 2. *A financing order is issued if the application is approved and the conditions are met, if conditions are imposed; and*
 - (b) *The commission shall approve the application for a financing order with or without conditions if the commission finds:*

1. *The application is in the public interest; and*
 2. *The resulting estimated securitized surcharge and other rates are fair, just, and reasonable.*
- (2) *Judicial review of a financing order shall only be done in accordance with KRS 278.410.*
- (3) *In performing the responsibilities under Sections 1 to 15 of this Act, the commission may retain counsel, one (1) or more financial advisors, or other consultants as the commission deems appropriate. Outside counsel, advisors, or other consultants engaged by the commission shall have no interest in the proposed securitized bonds and shall not direct the placement of securitized bonds. The costs associated with retaining counsel or advisors shall:*
- (a) *Be paid by the applicant and be included as financing costs in the securitized surcharge;*
 - (b) *Be assigned solely to the subject transaction; and*
 - (c) *Not be an obligation of the Commonwealth.*
- (4) *The commission may designate one (1) or more representatives from commission staff who may be advised by one (1) or more financial advisors contracted with the commission to provide:*
- (a) *Input to and collaborate with the electric utility during the process undertaken to place the securitized bonds to market; and*
 - (b) *An opinion to the commission on the reasonableness of the pricing, terms, and conditions of the securitized bonds on an expedited basis.*
- (5) *The designated commission staff and any financial advisor providing advice to commission staff shall:*
- (a) *Have no authority to direct how the electric utility places the bonds to market; and*
 - (b) *Be permitted to attend meetings convened by the electric utility to address placement of the bonds to market.*
- (6) *If an electric utility's application for a financing order is denied or withdrawn, or for any reason securitized bonds are not issued, any costs of retaining financial advisors, consultants, and counsel on behalf of the commission shall be:*
- (a) *Paid by the applicant;*
 - (b) *Recorded on the books of the utility using appropriate deferral accounting as a regulatory asset; and*
 - (c) *Be eligible for full recovery, including carrying costs, subject to commission approval.*
- (7) *Prior to the issuance of each series of securitized bonds, the electric utility shall provide an issuance advice letter to the commission following the determination of the final terms of the series of securitized bonds no later than three (3) business days after the pricing of the securitized bonds.*
- (8) *The issuance advice letter shall:*
- (a) *Report the initial securitized surcharges and other information specific to the securitized bonds as required by the commission;*
 - (b) *Be included in the financing order which may contain additional provisions relating to the issuance advice letter process as the commission deems appropriate and not inconsistent with Sections 1 to 15 of this Act;*
 - (c) *Indicate the final structure of the securitized bonds; and*
 - (d) *Provide the best available estimate of total ongoing financing costs.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *A financing order issued by the commission, after a hearing, to an electric utility shall include:*
- (a) *The amount of securitized costs to be financed using securitized bonds and a finding that recovery of those costs is fair, just, and reasonable and in the public interest;*
 - (b) *A description and estimate of the amount of financing costs that may be recovered through securitized surcharges and the period over which securitized costs and financing costs may be recovered;*

- (c) *A finding that the proposed issuance of securitized bonds and the imposition and collection of a securitized surcharge are fair, just, and reasonable, in the public interest, and expected to provide quantifiable net present value benefits to customers as compared to recovery of the components of securitized costs that would have been incurred absent the issuance of securitized bonds;*
- (d) *A finding that the proposed structuring and pricing of the securitized bonds are reasonably expected to result in the lowest securitized surcharges consistent with market conditions at the time the securitized bonds are priced under the terms of the financing order;*
- (e) *A requirement that, for so long as the securitized bonds are outstanding and until all financing costs have been paid in full, the imposition and collection of securitized surcharges authorized under a financing order shall be nonbypassable and paid by all existing and future retail customers receiving electric service from the electric utility, its successors, or assignees under commission-approved rate schedules even if a retail customer elects to purchase electricity from an alternative electric supplier following a fundamental change in regulation of public utilities in the Commonwealth;*
- (f) *A formula-based true-up mechanism for making:*
 - 1. *At least annually, expeditious periodic adjustments in the securitized surcharges that customers are required to pay pursuant to the financing order; and*
 - 2. *Any adjustments that are necessary to correct for any over collection or under collection of the surcharges and to ensure the timely payment of securitized bonds and financing costs and other required amounts and surcharges payable under the securitized bonds;*
- (g) *A requirement that the securitized property:*
 - 1. *Is created or shall be created in favor of an electric utility, its successors, or assignees; and*
 - 2. *Shall be used to pay or secure securitized bonds and approved financing costs;*
- (h) *A statement regarding the degree of flexibility to be afforded to the electric utility in establishing:*
 - 1. *The terms and conditions of the securitized bonds, including but not limited to repayment schedules, expected interest rates, and other financing costs;*
 - 2. *Subject to the issuance advice letter process, the terms and conditions for the securitized bonds to accommodate changes in market conditions, including repayment schedules, interest rates, financing costs, collateral requirements, required debt service, and other reserves; and*
 - 3. *At its option, the issuance of a series of issuances of securitized bonds and correlated assignments, sales, pledges, or other transfers of securitized property;*
- (i) *A requirement as to how securitized surcharges will be allocated among retail customer classes;*
- (j) *A requirement that, after the final terms of a proposed issuance of securitized bonds has been established but before the issuance of the securitized bonds, the electric utility shall determine the initial securitized surcharge in the manner required by and consistent with the financing order. The initial securitized surcharge shall be final and effective upon the issuance of the securitized bonds, with the surcharge to be reflected on a compliance tariff and filing bearing the surcharge and the calculation thereof;*
- (k) *A method of:*
 - 1. *Tracing funds collected as securitized surcharges or other proceeds of securitized property and authorization to change the method of tracing funds from time to time in accordance with the financing documents; and*
 - 2. *Determining that the method, as amended from time to time, shall be used for tracing the funds and the identifiable cash proceeds of any securitized property subject to a financing order under applicable law;*
- (l) *A statement specifying the details of a future ratemaking process used to reconcile any differences between the actual securitized costs financed by the electric utility, its successor, or assignee provided that any reconciliation shall not affect the amount of securitized bonds or the associated securitized surcharges paid by customers;*

- (m) *A procedure that shall allow the electric utility to earn a return at its weighted average cost of capital authorized by the commission in the electric utility's rate proceedings, and subject to changes in interest rates, any moneys advanced by the electric utility to fund reserves, if any, or capital accounts established under the terms of any indenture, ancillary agreement, or other financing documents pertaining to the securitized bonds;*
 - (n) *An outside date, which shall not be earlier than one (1) year after the date the financing order is no longer subject to appeal, when the authority to issue securitized bonds granted in the financing order expires; and*
 - (o) *A statement that accumulated deferred income taxes and regulatory liabilities for excess deferred income taxes used in calculating retired generation costs shall be excluded from the rate base in future general rate cases and that no amortization of those excess deferred income taxes shall be reflected in future general rate cases.*
- (2) *Notwithstanding any provision of Sections 1 to 15 of this Act to the contrary, in considering whether to find the proposed issuance of securitized bonds and the imposition and collection of a securitized charge to be fair, just, and reasonable and in the public interest, the commission may consider previous instances where the commission has issued a financing order to the applicant and the applicant has previously issued securitized bonds.*
 - (3) *A financing order issued to an electric utility may provide that the creation of the electric utility's securitized property is conditioned upon, and simultaneous with, the:*
 - (a) *Sale or other transfer of the securitized property to an assignee; and*
 - (b) *Pledge of the securitized property to secure securitized bonds.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *Upon the commission issuing a financing order and after the securitized bonds have been issued, the electric utility shall file with the commission a:*
 - (a) *Tariff containing the mechanism for the assessment of a monthly surcharge to existing rates for the collection of the securitized costs; and*
 - (b) *Formula-based true-up mechanism.*
- (2) *The commission, in a financing order and subject to the issuance advice letter process, shall specify the degree of flexibility to be afforded the electric utility in establishing:*
 - (a) *The terms and conditions for the securitized bonds to accommodate changes in market conditions, including repayment schedules, interest rates, financing costs, collateral requirements, required debt service, and other reserves; and*
 - (b) *At its option, a series of issuances of securitized bonds and correlated assignments, sales, pledges, or other transfers of securitized property.*
- (3) *The electric utility shall file a semi-annual update to its monthly surcharge, based on estimates of consumption for each rate class and other mathematical factors, to collect the appropriate amount of securitized costs. The review by the commission of the semi-annual update pursuant to this section shall be limited to:*
 - (a) *Determining whether there are any mathematical or clerical errors in the application of the formula-based true-up mechanism relating to the appropriate amount of any over collection or under collection of a securitized surcharge; and*
 - (b) *The amount of an adjustment.*
- (4) *The adjustments shall ensure solely for the recovery of:*
 - (a) *Revenues sufficient to provide for the payment of principal, interest, acquisition, defeasance, financing costs, or redemption premium; and*
 - (b) *Other fees, costs, and charges with respect to securitized bonds approved under the financing order.*
- (5) *Within ten (10) days after receiving an electric utility's filing of the billing adjustment pursuant to this section, the commission shall either:*

- (a) *Affix an official stamp on the filing indicating the commission's review is complete; or*
- (b) *Inform the electric utility of any mathematical or clerical errors in the electric utility's calculation.*
- (6) *If the commission informs the electric utility of mathematical or clerical errors in its calculation, the electric utility shall correct its error and refile its semi-annual surcharge update.*
- (7) *The time frames in subsection (5) of this section shall also apply to a refiled request.*
- (8) *At the time of any transfer of securitized property to an assignee or the issuance of securitized bonds authorized thereby, whichever is earlier, a financing order shall be irrevocable and, except for changes made pursuant to the formula-based true-up mechanism authorized in this section, the commission shall not:*
 - (a) *Amend, modify, or terminate the financing order by any subsequent action; or*
 - (b) *Reduce, impair, postpone, terminate, or otherwise adjust securitized surcharges approved in the financing order.*
- (9) *After issuance of a financing order, the electric utility retains sole discretion regarding whether to:*
 - (a) *Assign, sell, or otherwise transfer securitized property; or*
 - (b) *Cause securitized bonds to be issued, including the right to defer or postpone the assignment, sale, transfer, or issuance of securitized bonds.*
- (10) *Any changes made under this section to terms and conditions for the securitized bonds shall be in conformance with the financing order.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *Subsequent to the issuance advice letter, and unless an earlier date is specified in the financing order, the electric utility may proceed with the issuance of the securitized bonds unless, prior to noon on the fourth business day after the pricing of the securitized bonds, the commission issues a disapproval order:*
 - (a) *Directing that the securitized bonds, as proposed, not be issued; and*
 - (b) *Stating the basis for the disapproval.*
- (2) *At the request of an electric utility, the commission may open a proceeding and issue a subsequent financing order that provides for refinancing, retiring, or refunding securitized bonds issued pursuant to the original financing order if the commission finds that the subsequent financing order satisfies all the criteria specified in Sections 1 to 15 of this Act. Effective upon retirement of the refunded securitized bonds and the issuance of new securitized bonds, the electric utility shall adjust and the commission shall approve the related securitized surcharges accordingly.*
- (3) *A financing order remains in effect and securitized property under the financing order continues to exist until:*
 - (a) *Securitized bonds issued pursuant to the financing order have been paid in full or defeased; and*
 - (b) *In each case, all commission-approved financing costs of the securitized bonds have been recovered in full.*
- (4) *A financing order issued to an electric utility remains in effect and unabated notwithstanding the reorganization, bankruptcy, or other insolvency proceedings, merger, or sale of the electric utility or its successors or assignees.*
- (5) *The commission shall not, in exercising its powers and carrying out its duties regarding any matter within its authority:*
 - (a) *Consider the securitized bonds issued pursuant to a financing order to be the debt of the electric utility other than for federal and state income tax purposes;*
 - (b) *Consider the securitized surcharges paid under the financing order to be the revenue of the electric utility for any purpose;*
 - (c) *Consider the securitized costs or financing costs specified in the financing order to be the costs of the electric utility;*

- (d) *Consider the presence of securitized assets as impacting the relative risk of the utility as it relates to determining an appropriate return on equity for ratemaking purposes; or*
 - (e) *Determine any action taken by an electric utility which is consistent with the financing order to be unjust or unreasonable.*
- (6) *No electric utility shall be:*
- (a) *Required to apply for a financing order; or*
 - (b) *If not under or applying for a financing order, otherwise be required to utilize any of the provisions under Sections 1 to 15 of this Act.*
- (7) *An electric utility's decision not to apply for a financing order shall not be admissible, utilized, or relied on by the commission in any commission proceeding respecting the electric utility's rates or its accounting. The commission shall not directly or indirectly:*
- (a) *Order or require an electric utility to use securitized bonds to recover deferred costs for a regulatory asset;*
 - (b) *Consider the debt reflected by the securitized bonds in establishing the electric utility's capital structure used to determine any regulatory matter, including the electric utility's revenue requirement used to set its rates; and*
 - (c) *Consider the existence of securitized bonds or the potential use of securitized bond financing proceeds in determining the electric utility's authorized rate of return used to determine the electric utility's revenue requirement used to establish its rates.*
- (8) *After the issuance of a financing order, the electric utility retains sole discretion regarding the issuance of the securitized bonds, including the right to defer or postpone the sale, assignment, transfer, or issuance. Nothing shall prevent the electric utility from abandoning the issuance of securitized bonds under the financing order by filing with the commission a statement of abandonment and the reasons therefor.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *If the commission has approved an electric utility's financing order and securitization bonds are issued on the electric utility's behalf, the electric utility shall:*
- (a) *Explicitly state on the customer's bill the portion of securitized surcharges applicable to the rate class as approved in the financing order issued to the electric utility; and*
 - (b) *Include the securitized surcharge on each customer's bill as a separate line item and include both the base rate for the customer's electricity and the amount of the surcharge.*
- (2) *If the securitized property has been transferred to an assignee, the customer bill shall include a statement that the assignee is the owner of the rights to securitized surcharges, and the electric utility or other entity, if applicable, is acting as a collection agent or servicer for the assignee.*
- (3) *Each tariff of the electric utility with a commission-approved financing order shall indicate the applicable securitized surcharge and the ownership of the surcharge.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *All securitized property that is specified in a financing order constitutes an existing, present, intangible property right or interest therein, notwithstanding the fact that the imposition and collection of securitized surcharges depends on the electric utility performing its servicing functions relating to the collection of securitized surcharges and on future electricity consumption. The property right or interest therein exists regardless:*
- (a) *Of whether the revenues or proceeds arising from the property have been billed, accrued, or collected; and*
 - (b) *That the value or amount of the property is dependent on the future provision of service to customers by the electric utility, its successors, or assignees and on the future consumption of electricity by its customers.*
- (2) *Securitized property specified in a financing order exists until the securitized bonds issued pursuant to the financing order are paid in full and all financing costs and other costs of the securitized bonds have been recovered in full.*

- (3) *Any portion of securitized property specified in a financing order issued to an electric utility may be transferred, sold, conveyed, or assigned to a successor or assignee that is wholly-owned, directly or indirectly, by the electric utility and created for the limited purpose of acquiring, owning, or administering securitized property or issuing securitized bonds under the financing order. Any portion of securitized property may be pledged to secure:*
- (a) *Securitized bonds issued pursuant to the financing order;*
 - (b) *Amounts payable to financing parties and to counterparties under any ancillary agreements; and*
 - (c) *Other financing costs.*
- (4) *Any transfer, sale, conveyance, assignment, grant of a security interest in, or pledge of securitized property by an electric utility or an affiliate of the electric utility to an assignee, to the extent previously authorized in a financing order, does not require the prior consent and approval of the commission.*
- (5) *If an electric utility defaults on any required remittance of securitized surcharges arising from securitized property specified in a financing order, a court, upon application by an interested party and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the revenues arising from the securitized property to the financing parties, their successors, or assignees. The financing order shall remain in full force and effect notwithstanding any reorganization, bankruptcy, or other insolvency proceedings with respect to the electric utility, its successors, or assignees.*
- (6) *The interest of a transferee, purchaser, acquirer, assignee, or pledgee in securitized property specified in a financing order issued to an electric utility, and in the revenue and collections arising from that property, shall not be subject to setoff, counterclaim, surcharge, or defense by:*
- (a) *The electric utility; or*
 - (b) *Any other person in connection with the reorganization, bankruptcy, or other insolvency of the electric utility or of any other entity.*
- (7) *Any successor to an electric utility, whether pursuant to any reorganization, bankruptcy, or other insolvency proceeding, any merger or acquisition, sale or other business combination, transfer by operation of law as a result of the electric utility restructuring or otherwise, shall perform and satisfy all obligations of, and have the same rights under a financing order as, the electric utility under the financing order in the same manner and to the same extent as the electric utility, including collecting and paying to the person entitled to receive the revenues, collections, payments, or proceeds of the securitized property. Nothing in Sections 1 to 15 of this Act shall limit or impair any authority of the commission concerning the transfer or succession of interests of electric utilities.*
- (8) *Securitized bonds shall be nonrecourse to the credit or any assets of the electric utility other than the securitized property as specified in the financing order and any rights under any ancillary agreement.*
- ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:
- (1) *The creation, perfection, priority, and enforcement of any security interest or lien in securitized property to secure the repayment of the principal and interest and other amounts payable in respect of securitized bonds, amounts payable under any ancillary agreement, and other financing costs are governed by Sections 1 to 15 of this Act and not by the provisions of the code or other law, except as otherwise provided in Sections 1 to 15 of this Act.*
- (2) *A security interest in securitized property is created, valid, and binding when the last of all the following actions has occurred:*
- (a) *The financing order is issued;*
 - (b) *A security agreement is executed and delivered by the debtor granting the security interest;*
 - (c) *The debtor has rights to the securitized property or the power to transfer rights in the securitized property; or*
 - (d) *The value is received for the grant of the security interest in the securitized property.*
- (3) *A description of securitized property in a security agreement shall be sufficient if the description refers to Sections 1 to 15 of this Act and the financing order creating the securitized property. A security interest shall attach as provided in this section without any physical delivery of collateral or other act.*

- (4) *Upon the filing of a financing statement with the Office of the Secretary of State as provided in this section, a security interest in securitized property shall be perfected against all parties having claims of any kind in tort, contract, or otherwise against the person granting the security interest, and regardless of whether the parties have notice of the security interest. Without limiting the foregoing, upon the time of filing a security interest in securitized property shall be perfected against all claims of lien creditors, and shall have priority over all competing security interests and other claims other than any security interest previously perfected in accordance with this section.*
- (5) *The priority of a security interest in securitized property shall not be affected by the commingling of securitized surcharges with other amounts. Any pledgee or secured party shall have a perfected security interest in the amount of all securitized surcharges that are deposited in any cash or deposit account of the qualifying electric utility where securitized surcharges have been commingled with other funds, and any other security interest that may apply to those funds shall be terminated when the funds are transferred to a segregated account for the assignee or a financing party.*
- (6) *No application of the formula-based true-up mechanism as provided in Sections 1 to 15 of this Act shall affect the validity, perfection, or priority of a security interest in or a transfer of securitized property.*
- (7) *If a default occurs of the securitized bonds that are secured by a security interest in the securitized property, the financing parties or their representatives may exercise the rights and remedies available to a secured party under the code, including the rights and remedies available under Article 9, Part 6 of the code. The commission also may order amounts arising from securitized charges be transferred to a separate account for the benefit of the financing party, to which their lien and security interest shall apply. On application by or on behalf of the financing parties, the Circuit Court for the county or city in which the electric utility's headquarters is located shall order the sequestration and payment of revenues arising from the securitized charges to the financing parties.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *Any sale, assignment, or other transfer of securitized property shall be an absolute transfer and true sale of, and not a pledge of or secured transaction relating to the seller's right, title, and interest in, to, and under the securitized property if the documents governing the transaction expressly state that the transaction is a sale or other absolute transfer other than for federal and state income tax purposes.*
- (2) *For all purposes other than federal and state income tax purposes, the parties' characterization of a transaction as a sale of an interest in securitized property shall be conclusive that the transaction is a true sale and that ownership has passed to the party characterized as the purchaser, regardless of whether the purchaser has possession of any documents evidencing or pertaining to the interest. A sale or similar outright transfer of an interest in securitized property may occur only when all the following actions have occurred:*

- (a) *The financing order creating the securitized property has become effective;*
- (b) *The documents evidencing the transfer of securitized property have been executed by the assignor and delivered to the assignee; and*
- (c) *Value is received for the securitized property.*

The securitized property shall not be subject to any claims of the transferor or the transferor's creditors, other than creditors holding a prior security interest in the securitized property perfected in accordance with this section.

- (3) *The characterization of the sale, assignment, or other transfer as an absolute transfer and true sale and the corresponding characterization of the property interest of the purchaser shall not be affected or impaired by the occurrence of any of the following factors:*
- (a) *Commingling of securitized charges with other amounts;*
- (b) *The retention by the seller of:*
1. *A partial or residual interest, including an equity interest in the securitized property, whether direct or indirect, or whether subordinate or otherwise; or*
 2. *The right to recover costs associated with taxes, franchise fees, or license fees imposed on the collection of securitized charges;*
- (c) *Any recourse that the purchaser may have against the seller;*

- (d) *Any indemnification rights, obligations, or repurchase rights made or provided by the seller;*
 - (e) *The obligation of the seller to collect securitized surcharges on behalf of an assignee;*
 - (f) *The transferor acting as the servicer of the securitized surcharges or the existence of any contract that authorizes or requires the electric utility, to the extent that any interest in securitized property is sold or assigned, to contract with the assignee or any financing party that it will:

 - 1. *Continue to operate its system to provide service to its customers;*
 - 2. *Collect amounts in respect of the securitized surcharges for the benefit and account of the assignee or financing party; and*
 - 3. *Account for and remit required amounts to or for the account of the assignee or financing party;**
 - (g) *The treatment of the sale, conveyance, assignment, or other transfer for tax, financial reporting, or other purposes;*
 - (h) *The granting or providing to bondholders a preferred right to the securitized property or credit enhancement by the electric utility or its affiliates with respect to the securitized bonds; or*
 - (i) *Any application of the formula-based true-up mechanism as provided in Sections 1 to 15 of this Act.*
- (4) *Any right that an electric utility has in the securitized property before its pledge, sale, or transfer, or any other right created under Sections 1 to 15 of this Act, created in the financing order and assignable under Sections 1 to 15 of this Act, or assignable pursuant to a financing order is property in the form of a contract right or a right to sue. Transfer of an interest of securitized property to an assignee shall be enforceable only upon the later of:*
- (a) *The issuance of a financing order;*
 - (b) *The assignor having rights in the securitized property or the power to transfer rights in the securitized property to an assignee;*
 - (c) *The execution and delivery by the assignor of transfer documents in connection with the issuance of securitized bonds; and*
 - (d) *The receipt of value for the securitized property.*

An enforceable transfer of an interest in securitized property to an assignee is perfected against all third parties, including subsequent judicial or other lien creditors, when a notice of that transfer has been given by the filing of a financing statement in accordance with Section 12 of this Act. After the transaction and filing, the transfer of the securitized property shall be absolute and shall be made free and clear of, and not subject to, competing claims of the creditors of the transferor, regardless of whether or not the competing claims are supported by any prior security interest or lien, other than prior claims or security interests in the securitized property perfected in accordance with this section.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *The priority of transfer perfected under Sections 9 to 12 of this Act shall not be impaired by any later modification of the financing order or securitized property or by the commingling of funds arising from securitized property with other funds. Any other security interest that may apply to those funds, other than a security interest perfected under Sections 9 and 10 of this Act and this section is terminated when those funds are transferred to a segregated account for the assignee or a financing party. If securitized property has been transferred to an assignee or financing party, any proceeds of that property shall be held in trust for the assignee or financing party.*
- (2) *The priority of the conflicting interest of assignees in the same interest or rights in any securitized property shall be determined as follows:

 - (a) *Conflicting perfected interests or rights of assignees rank according to priority in time of perfection. Priority dates from the time of filing covering the transfer shall be made in accordance with Section 12 of this Act;*
 - (b) *A perfected interest or right of an assignee has priority over a conflicting unperfected interest or right of an assignee; and**

- (c) *A perfected interest or right of an assignee has priority over a person who becomes a lien creditor after the perfection of the assignee's interest or right.*
- (3) *The description of securitized property being transferred to an assignee in any sale agreement, purchase agreement, or other transfer agreement, granted or pledged to a pledgee in any security agreement, pledge agreement, or other security document, or indicated in any financing statement shall be sufficient only if the description or indication:*
- (a) *Refers to the financing order that created the securitized property; and*
- (b) *States that the agreement or financing statement covers all or part of the property described in the financing order.*
- (4) *Sections 1 to 15 of this Act shall apply to all purported transfers of, and all purported grants, liens, or security interests in, securitized property, regardless of whether the related sale agreement, purchase agreement, or transfer agreement, security agreement, pledge agreement, or other security document was entered into, or any financing statement was filed.*

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *The Secretary of State shall maintain any financing statement filed to perfect a sale or other transfer of securitized property and any security interest in securitized property under Sections 1 to 15 of this Act in the same manner that the Secretary of State maintains financing statements filed under the code to perfect a security interest in collateral owned by a transmitting utility.*
- (2) *Except as otherwise provided in this section, all financing statements filed pursuant to this section shall be governed by the provisions regarding financing statements and the filing thereof under the code, including Article 9, Part 5 of the code. A security interest in securitized property may be perfected only by the filing of a financing statement in accordance with this section, and no other method of perfection shall be effective. Notwithstanding any provision of the code to the contrary, a financing statement filed pursuant to this section shall be effective until a termination statement is filed under the code, and no continuation statement shall need to be filed to maintain its effectiveness.*
- (3) *A financing statement filed pursuant to this section may indicate that the debtor is a transmitting utility, and without regard to whether the debtor is an electric utility, an assignee, or otherwise qualifies as a transmitting utility under the code, but the failure to make a transmitting utility's indication shall not impair the duration and effectiveness of the financing statement.*

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *The laws of the Commonwealth shall govern the validity, enforceability, attachment, perfection, priority, and exercise of remedies with respect to the transfer of an interest or right or the pledge or creation of a security interest in any securitized property.*
- (2) *Neither the Commonwealth nor its political subdivisions shall be liable on any securitized bonds. The bonds shall not be a:*
- (a) *Debt or a general obligation of the Commonwealth or any of its political subdivisions, agencies, or instrumentalities; or*
- (b) *Special obligations or indebtedness of the Commonwealth or any of its political subdivisions, agencies, or instrumentalities.*
- (3) *An issue of securitized bonds shall not directly, indirectly, or contingently, obligate the Commonwealth or any agency, political subdivision, or instrumentality of the Commonwealth to levy any tax or make any appropriation for payment of the securitized bonds, other than in their capacity as consumers of electricity. All securitized bonds shall contain on their face a statement to the following effect: "Neither the full faith and credit nor the taxing power of the Commonwealth of Kentucky is pledged to the payment of the principal of, or interest on, this bond."*

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) *All of the following entities may legally invest any sinking funds, moneys, or other funds, in securitized bonds:*
- (a) *Subject to applicable statutory restrictions on state or local investment authority, the Commonwealth, units of local government, political subdivisions, public bodies, and public officers, except for:*

1. *Members of the commission;*
 2. *The commission's technical advisory and other staff; and*
 3. *Employees of the Attorney General's Office of Rate Intervention;*
- (b) *Banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance associations, and other persons carrying on a banking or insurance business;*
- (c) *Personal representatives, guardians, trustees, and other fiduciaries; and*
- (d) *All other persons authorized to invest in bonds or other obligations of a similar nature.*
- (2) *Any determination of the commission made in connection with any financing order and any financing order of the commission issued pursuant to this subsection shall be a binding, irrevocable, and final order of the commission, and binding on the commission and the Commonwealth. The Commonwealth and its agencies, including the commission, pledge and agree with bondholders, the owners of the securitized property, and other financing parties that the Commonwealth and its agencies shall not undertake any of the prohibited actions listed in this subsection. This subsection shall not preclude limitation or alteration, if full compensation is made by law for the full protection of the securitized surcharges collected pursuant to a financing order and of the bondholders, any assignee, or financing party entering into a contract with the electric utility. The Commonwealth and its agencies, including the commission, shall not:*
- (a) *Alter the provisions of Sections 1 to 15 of this Act which authorize the commission to create an irrevocable contract right or right to sue by the issuance of a financing order creating securitized property, making the securitized surcharges imposed by a financing order irrevocable, binding, or affecting the nonbypassable charges for all existing and future retail customers of the electric utility;*
 - (b) *Take or permit any action that impairs or would impair the value of securitized property or the security for the securitized bonds or revises the securitized costs for which recovery is authorized;*
 - (c) *In any way impair the rights and remedies of the bondholders, assignees, and other financing parties; and*
 - (d) *Except for changes made pursuant to the formula-based true-up mechanism authorized under Section 5 of this Act, reduce, alter, or impair securitized surcharges that are to be imposed, billed, charge, collected, and remitted for the benefit of the bondholders, any assignee, and any other financing parties until any and all principal, interest, premium, financing costs, and other fees, expenses, or charges incurred, and any contracts to be performed, in connection with the related securitized bonds have been paid and performed in full.*
- (3) *Any person or entity that issues securitized bonds may include the language specified in this subsection in the securitized bonds and related documentation.*

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *An assignee or financing party shall not be deemed an electric utility or person providing electric service by virtue of engaging in the transactions described in Sections 1 to 15 of this Act.*
- (2) *If there is a conflict between any of the provisions of Sections 1 to 15 of this Act and any other law regarding the attachment, assignment, perfection or the effect of perfection, priority of, assignment, or transfer of, or security interest in securitized property, the provisions of Sections 1 to 15 of this Act shall govern.*
- (3) *If any provision of Sections 1 to 15 is held invalid or is invalidated, superseded, replaced, repealed, or expires for any reason:*
 - (a) *The occurrence does not affect the validity of any action allowed under Sections 1 to 15 of this Act which is taken by an electric utility, assignee, financing party, collection agent, or party to an ancillary agreement; and*
 - (b) *All actions remain in full force and effect with respect to all securitized bonds issued or authorized in a financing order issued under Sections 1 to 15 of this Act before the date the provision is held invalid or is invalidated, superseded, replaced, repealed, or expires for any reason.*

Signed by Governor March 23, 2023.

CHAPTER 73**(SB 94)**

AN ACT relating to prescriptive authority.

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

➔Section 1. KRS 314.042 is amended to read as follows:

- (1) An applicant for licensure to practice as an advanced practice registered nurse shall file with the board a written application for licensure and submit evidence, verified by oath, that the applicant:
 - (a) Has completed an education program that prepares the registered nurse for one (1) of four (4) APRN roles that has been accredited by a national nursing accrediting body recognized by the United States Department of Education;
 - (b) Is certified by a nationally established organization or agency recognized by the board to certify registered nurses for advanced practice registered nursing;
 - (c) Is able to understandably speak and write the English language and to read the English language with comprehension; and
 - (d) Has passed the jurisprudence examination approved by the board as provided in subsection ~~(13)~~~~(12)~~ of this section.
- (2) The board may issue a license to practice advanced practice registered nursing to an applicant who holds a current active registered nurse license issued by the board or holds the privilege to practice as a registered nurse in this state and meets the qualifications of subsection (1) of this section. An advanced practice registered nurse shall be:
 - (a) Designated by the board as a certified registered nurse anesthetist, certified nurse midwife, certified nurse practitioner, or clinical nurse specialist; and
 - (b) Certified in at least one (1) population focus.
- (3) The applicant for licensure or renewal thereof to practice as an advanced practice registered nurse shall pay a fee to the board as set forth in regulation by the board.
- (4) An advanced practice registered nurse shall maintain a current active registered nurse license issued by the board or hold the privilege to practice as a registered nurse in this state and maintain current certification by the appropriate national organization or agency recognized by the board.
- (5) Any person who holds a license to practice as an advanced practice registered nurse in this state shall have the right to use the title "advanced practice registered nurse" and the abbreviation "APRN." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced practice registered nurse. No person shall practice as an advanced practice registered nurse unless licensed under this section.
- (6) Any person heretofore licensed as an advanced practice registered nurse under the provisions of this chapter who has allowed the license to lapse may be reinstated on payment of the current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A.
- (7) The board may authorize a person to practice as an advanced practice registered nurse temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting licensure by endorsement.
- (8)
 - (a) Except as authorized by subsection (9) of this section, before an advanced practice registered nurse engages in the prescribing or dispensing of nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced practice registered nurse shall enter into a written "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Nonscheduled Legend Drugs"

- (CAPA-NS) with a physician licensed in Kentucky that defines the scope of the prescriptive authority for nonscheduled legend drugs.
- (b) The advanced practice registered nurse shall notify the Kentucky Board of Nursing of the existence of the CAPA-NS and the name of the collaborating physician and shall, upon request, furnish to the board or its staff a copy of the completed CAPA-NS. The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that a CAPA-NS exists and furnish the collaborating physician's name.
 - (c) The CAPA-NS shall be in writing and signed by both the advanced practice registered nurse and the collaborating physician. A copy of the completed collaborative agreement shall be available at each site where the advanced practice registered nurse is providing patient care.
 - (d) The CAPA-NS shall describe the arrangement for collaboration and communication between the advanced practice registered nurse and the collaborating physician regarding the prescribing of nonscheduled legend drugs by the advanced practice registered nurse.
 - (e) The advanced practice registered nurse who is prescribing nonscheduled legend drugs and the collaborating physician shall be qualified in the same or a similar specialty.
 - (f) The CAPA-NS is not intended to be a substitute for the exercise of professional judgment by the advanced practice registered nurse or by the collaborating physician.
 - (g) The CAPA-NS shall be reviewed and signed by both the advanced practice registered nurse and the collaborating physician and may be rescinded by either party upon written notice to the other party and the Kentucky Board of Nursing.
- (9) (a) Before an advanced practice registered nurse may discontinue or be exempt from a CAPA-NS required under subsection (8) of this section, the advanced practice registered nurse shall have completed four (4) years of prescribing as a *certified* nurse practitioner, clinical nurse specialist, *certified* nurse midwife, or as a *certified registered* nurse anesthetist. For nurse practitioners and clinical nurse specialists, the four (4) years of prescribing shall be in a population focus as defined in KRS 314.011.
- (b) After four (4) years of prescribing with a CAPA-NS in collaboration with a physician:
 - 1. An advanced practice registered nurse whose license is in good standing at that time with the Kentucky Board of Nursing and who will be prescribing nonscheduled legend drugs without a CAPA-NS shall notify that board that the four (4) year requirement has been met and that he or she will be prescribing nonscheduled legend drugs without a CAPA-NS;
 - 2. The advanced practice registered nurse will no longer be required to maintain a CAPA-NS and shall not be compelled to maintain a CAPA-NS as a condition to prescribe after the four (4) years have expired, but an advanced practice registered nurse may choose to maintain a CAPA-NS indefinitely after the four (4) years have expired; and
 - 3. If the advanced practice registered nurse's license is not in good standing, the CAPA-NS requirement shall not be removed until the license is restored to good standing.
 - (c) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement is exempt from the CAPA-NS requirement if the advanced practice registered nurse:
 - 1. Has met the prescribing requirements in a state that grants independent prescribing to advanced practice registered nurses; and
 - 2. Has been prescribing for at least four (4) years.
 - (d) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement who had a collaborative prescribing agreement with a physician in another state for at least four (4) years is exempt from the CAPA-NS requirement.
- (10) (a) ***There is hereby established the "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances" (CAPA-CS) Committee. The committee shall be composed of four (4) members selected as follows:***
- 1. ***Two (2) members shall be advanced practice registered nurses who currently prescribe or have prescribed scheduled drugs, each appointed by the Kentucky Board of Nursing from a list of***

names submitted for each position by the Kentucky Association of Nurse Practitioners and Nurse-Midwives; and

2. *Two (2) members shall be physicians who have currently or had previously a signed CAPA-CS with an advanced practice registered nurse who prescribes scheduled drugs, each appointed by the Kentucky Board of Medical Licensure from a list of names submitted for each position by the Kentucky Medical Association.*
 - (b) *Within sixty (60) days of the effective date of this Act, the committee shall develop a standardized CAPA-CS form to be used in accordance with the provisions of subsection (11) of this section. The standardized CAPA-CS form shall be used by all advanced practice registered nurses and all physicians in Kentucky who enter into a CAPA-CS.*
 - (c) *The committee may be reconvened at the request of the Kentucky Board of Nursing or the Kentucky Board of Medical Licensure if it becomes necessary to update the standardized CAPA-CS form.*
 - (d) *The Kentucky Board of Nursing and the Kentucky Board of Medical Licensure shall each be responsible for and have exclusive authority over their respective members appointed to the committee.*
 - (e) *The committee shall be attached to the Kentucky Board of Nursing for administrative purposes. The Kentucky Board of Nursing shall be responsible for the expenses of its members. The Kentucky Board of Medical Licensure shall be responsible for the expenses of its members.*
 - (f) *The Kentucky Board of Nursing shall promulgate an administrative regulation pursuant to KRS Chapter 13A within ninety (90) days of the effective date of this Act to establish and implement the standardized CAPA-CS form developed by the committee.*
- (11) (a) *Except as provided in subsections (14) and (15) of this section, before an advanced practice registered nurse engages in the prescribing of Schedules II through V controlled substances as authorized by KRS 314.011(8), the advanced practice registered nurse shall enter into a written "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances" (CAPA-CS) on a standardized CAPA-CS form with a physician licensed in Kentucky that defines the scope of the prescriptive authority for controlled substances.*
- (b) *The advanced practice registered nurse shall notify the Kentucky Board of Nursing of the existence of the CAPA-CS and the name of the collaborating physician and shall, upon request, furnish to the board or its staff a copy of the completed **standardized CAPA-CS form**. The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that a CAPA-CS exists and furnish **an executed copy of the Kentucky Board of Nursing notification of a CAPA-CS completed by the advanced practice registered nurse to the Kentucky Board of Medical Licensure**~~[the collaborating physician's name]~~.*
 - (c) *The CAPA-CS shall be in writing and signed by both the advanced practice registered nurse and the collaborating physician. A copy of the completed **standardized CAPA-CS form**~~[collaborative agreement]~~ shall be available at each site where the advanced practice registered nurse is providing patient care.*
 - (d) *The CAPA-CS shall describe the arrangement for collaboration and communication between the advanced practice registered nurse and the collaborating physician regarding the prescribing of controlled substances by the advanced practice registered nurse.*
 - (e) *The advanced practice registered nurse who is prescribing controlled substances and the collaborating physician shall be qualified in the same or a similar specialty.*
 - (f) *The CAPA-CS is not intended to be a substitute for the **appropriate** exercise of professional judgment by the advanced practice registered nurse or by the collaborating physician.*
 - (g) *The relevant statutes and regulations pertaining to the prescribing authority of advanced practice registered nurses for controlled substances shall be reviewed by the advanced practice registered nurse and the collaborating physician at the outset of the CAPA-CS*~~[Before engaging in the prescribing of controlled substances, the advanced practice registered nurse shall:~~
 1. ~~Have been licensed to practice as an advanced practice registered nurse for one (1) year with the Kentucky Board of Nursing; or~~

- ~~2. Be nationally certified as an advanced practice registered nurse and be registered, certified, or licensed in good standing as an advanced practice registered nurse in another state for one (1) year prior to applying for licensure by endorsement in Kentucky].~~
- (h) Prior to prescribing controlled substances, the advanced practice registered nurse shall obtain a Controlled Substance Registration Certificate through the *United States*~~[U.S.]~~ Drug Enforcement Administration~~[Agency]~~.
- (i) The CAPA-CS shall be reviewed and signed by both the advanced practice registered nurse and the collaborating physician and may be rescinded by either party upon *thirty (30) days* written notice to the other party. *The advanced practice registered nurse shall notify the Kentucky Board of Nursing that the CAPA-CS has been rescinded. The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that the CAPA-CS has been rescinded and shall furnish an executed copy of the Kentucky Board of Nursing recission of a CAPA-CS completed by the advanced practice registered nurse or by the collaborating physician to the Kentucky Board of Medical Licensure*~~[and the Kentucky Board of Nursing]~~.
- (j) The CAPA-CS shall state ~~any~~~~[the]~~ limits on controlled substances which may be prescribed by the advanced practice registered nurse, as agreed to by the advanced practice registered nurse and the collaborating physician. The limits so imposed may be more stringent than either the schedule limits on controlled substances established in KRS 314.011(8) or the limits imposed in regulations promulgated by the Kentucky Board of Nursing thereunder. *The CAPA-CS shall also include any requirements, as agreed to by both the advanced practice registered nurse and the collaborating physician, for communication between the advanced practice registered nurse and the collaborating physician.*
- (k) Within thirty (30) days of obtaining a Controlled Substance Registration Certificate from the United States Drug Enforcement Administration, and prior to prescribing controlled substances, the advanced practice registered nurse shall register with the electronic system for monitoring controlled substances established by KRS 218A.202 and shall provide a copy of the registration certificate to the board.
- (l) *After the effective date of this Act, for advanced practice registered nurses who have not had a CAPA-CS:*
1. *An advanced practice registered nurse wishing to have a CAPA-CS in his or her first year of licensure must be employed by a health care entity or provider. If the employing provider is an advanced practice registered nurse, he or she must have completed four (4) years of prescribing with a CAPA-CS and no longer be required to maintain a CAPA-CS;*
 2. *In the first year of the CAPA-CS, the advanced practice registered nurse and the physician shall meet at least quarterly, either in person or via video conferencing, to review the advanced practice registered nurse's reverse KASPER report or that of the prescription drug monitoring program (PDMP) currently in use in Kentucky pursuant to KRS 218A.202. The advanced practice registered nurse and the collaborating physician may meet via telephonic communication when an in-person meeting or videoconferencing session is not logistically or technologically feasible. The review of specific prescriptions identified in the reverse KASPER report or that of the PDMP currently in use in Kentucky pursuant to KRS 218A.202 by the advanced practice registered nurse and the collaborating physician may include information from the patient's medical record that relates to the condition or conditions being treated with controlled substances by the advanced practice registered nurse to facilitate meaningful discussion. A record of the meeting date, summary of discussions, and any recommendations made shall be made in writing and a copy retained by both parties to the agreement for a period of one (1) year past the expiration of the CAPA-CS. The meeting records shall be subject to audit by the Kentucky Board of Nursing for the advanced practice registered nurse and by the Kentucky Board of Medical Licensure for the physician. The sole purpose of the audit shall be to document that the collaboration meetings have taken place as required by this section and that other provisions of this section have been met; and*
 3. *In the ensuing three (3) years of the CAPA-CS, the advanced practice registered nurse and the physician shall meet at least biannually in person or via video conferencing to review the advanced practice registered nurse's reverse KASPER report or that of the PDMP currently in use in Kentucky pursuant to KRS 218A.202. The advanced practice registered nurse and the collaborating physician may meet via telephonic communication when an in-person meeting or videoconferencing session is not logistically or technologically feasible. The review of*

specific prescriptions identified in the reverse KASPER report or that of the PDMP currently in use in Kentucky pursuant to KRS 218A.202 by the advanced practice registered nurse and the collaborating physician may include information from the patient's medical record that relates to the condition or conditions being treated with controlled substances by the advanced practice registered nurse to facilitate meaningful discussion. A record of the meeting date, summary of discussions, and any recommendations made shall be noted in writing and a copy retained by both parties to the agreement for a period of one (1) year past the expiration of the CAPA-CS. The meeting records shall be subject to audit by the Kentucky Board of Nursing for the advanced practice registered nurse and by the Kentucky Board of Medical Licensure for the physician. The sole purpose of the audit shall be to document that the collaboration meetings have taken place as required by this section and that other provisions of this section have been met.

- ~~(12)~~~~(11)~~ Nothing in this chapter shall be construed as requiring an advanced practice registered nurse designated by the board as a certified registered nurse anesthetist to enter into a collaborative agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.
- ~~(13)~~~~(12)~~ The jurisprudence examination shall be prescribed by the board and be conducted on the licensing requirements under this chapter and board regulations and requirements applicable to advanced practice registered nursing in this Commonwealth. The board shall promulgate administrative regulations in accordance with KRS Chapter 13A, establishing the provisions to meet this requirement.
- (14) (a) *Except as provided in subsection (15) of this section, an advanced practice registered nurse who wishes to continue to prescribe controlled substances may be exempt from a CAPA-CS required under subsection (11) of this section if the advanced practice registered nurse has:*
1. *Completed four (4) years of prescribing authority for controlled substances with a CAPA-CS;*
 2. *Maintained a United States Drug Enforcement Administration registration; and*
 3. *Maintained a master account with KASPER or the PDMP currently in use in Kentucky pursuant to KRS 218A.202.*
- (b) *On or after the effective date of this Act:*
1. *An advanced practice registered nurse who has had four (4) years of prescribing authority with a CAPA-CS and who wishes to prescribe controlled substances without a CAPA-CS shall submit, via the APRN update portal, a request for review from the Kentucky Board of Nursing that the advanced practice registered nurse's license is in good standing;*
 2. *An advanced practice registered nurse who has fewer than four (4) years of prescribing authority with a CAPA-CS and who wishes to prescribe controlled substances without a CAPA-CS shall complete the required number of years under the then-current CAPA-CS to reach four (4) years and shall submit, via the APRN update portal, a request for review from the Kentucky Board of Nursing that the advanced practice registered nurse's license is in good standing. However, if the then current CAPA-CS expires or is rescinded prior to the end of the four (4) year term, a new CAPA-CS shall be required and subject to the provisions of this section;*
 3. *The advanced practice registered nurse shall not prescribe controlled substances without a CAPA-CS until the board has completed its review and has notified the advanced practice registered nurse in writing that the advanced practice registered nurse is exempt from the CAPA-CS requirement; and*
 4. *The review request shall include the payment of a fee set by the board through the promulgation of an administrative regulation.*
- (c) *Upon receipt of a request pursuant to this subsection, the Kentucky Board of Nursing shall perform a review to determine whether the license of the advanced practice registered nurse is in good standing based upon an evaluation of the criteria specified in this subsection and in the administrative regulation promulgated by the board pursuant to this subsection, including but not limited to verification:*
1. *That a current United States Drug Enforcement Administration registration certificate for the advanced practice registered nurse is on file with the board;*

2. *That a current CAPA-CS notification for the advanced practice registered nurse is on file with the board;*
 3. *That the advanced practice registered nurse has an active master account with the electronic system for monitoring controlled substances pursuant to KRS 218A.202;*
 4. *Through a criminal background check of the absence of any unreported misdemeanor or felony convictions in Kentucky; and*
 5. *Through a check of the coordinated licensure information system specified in KRS 314.475 of the absence of any unreported disciplinary actions in another state.*
- (d) *Based on the findings of these actions, the Kentucky Board of Nursing shall determine if the advanced practice registered nurse's license is in good standing for the purpose of removing the requirement for the advanced practice registered nurse to have a CAPA-CS in order to prescribe controlled substances.*
- (e) *If the advanced practice registered nurse's license is found to be in good standing, the advanced practice registered nurse shall be notified by the board in writing that a CAPA-CS is no longer required. The advanced practice registered nurse shall not be required to maintain a CAPA-CS as a condition to prescribe controlled substances unless the board later imposes such a requirement as part of an action instituted under KRS 314.091(1). An advanced practice registered nurse may choose to maintain a CAPA-CS indefinitely after the determination of good standing has been made. An advanced practice registered nurse who chooses to prescribe without a CAPA-CS shall be held to the same standard of care as all other providers with prescriptive authority.*
- (f) *If the advanced practice registered nurse's license is found not to be in good standing, the CAPA-CS requirement shall not be removed until the license is restored to good standing, as directed by the board.*
- (g) *The Kentucky Board of Nursing shall conduct random audits of the prescribing practices of advanced practice registered nurses, including those who are no longer required to have a CAPA-CS in order to prescribe, through a review of data obtained from the KASPER report or that of the PDMP currently in use in Kentucky pursuant to KRS 218A.202 and shall take disciplinary action under KRS 314.091(1) if a violation has occurred.*
- (15) (a) *An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement is exempt from the CAPA-CS requirement if the advanced practice registered nurse:*
1. *Has met the prescribing requirements for controlled substances in a state that grants such prescribing authority to advanced practice registered nurses;*
 2. *Has had authority to prescribe controlled substances for at least four (4) years; and*
 3. *Has a license in good standing as described in subsection (14) of this section and in the administrative regulation promulgated by the board pursuant to subsection (14) of this section.*
- (b) *An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement who has had the authority to prescribe controlled substances for less than four (4) years and wishes to continue to prescribe controlled substances shall enter into a CAPA-CS with a physician licensed in Kentucky and comply with the provisions of this section until the cumulative four (4) year requirement is met, after which the advanced practice registered nurse who wishes to prescribe controlled substances without a CAPA-CS shall follow the process identified in subsection (14) of this section and in the administrative regulation promulgated by the board pursuant to subsection (14) of this section.*
- (16) *An advanced practice registered nurse shall not prescribe controlled substances without a CAPA-CS until the board has completed its review and has notified the advanced practice registered nurse in writing that the advanced practice registered nurse is exempt from the CAPA-CS requirement.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *The Controlled Substances Prescribing Council is hereby established under the Office of the Inspector General. The council shall consist of the following fifteen (15) members:*
- (a) *The Inspector General of the Cabinet for Health and Family Services, who shall serve as chair of the council;*

- (b) The executive director of the Office of Drug Control Policy;*
 - (c) Two (2) currently licensed prescribers of scheduled drugs selected by the Kentucky Board of Dentistry, one (1) of whom shall be a dentist and one (1) of who shall be an oral surgeon;*
 - (d) Four (4) licensed physicians who currently prescribe scheduled drugs selected by the Kentucky Board of Medical Licensure, one (1) of whom shall have a specialty in primary care, one (1) of whom shall have a specialty in emergency medicine, one (1) of whom shall have a specialty in psychiatry or addiction medicine, and one (1) of whom shall have a specialty in pain management;*
 - (e) Four (4) licensed advanced practice registered nurses who currently prescribe scheduled drugs selected by the Kentucky Board of Nursing, one (1) of whom shall have a specialty in primary care, one (1) whom shall have a specialty in acute care, one (1) of whom shall have a specialty in psychiatric mental health or addiction, and one (1) of whom shall have a specialty in pain management;*
 - (f) One (1) licensed prescriber of scheduled drugs selected by the Kentucky Board of Optometric Examiners;*
 - (g) One (1) licensed prescriber of scheduled drugs selected by the Kentucky Board of Podiatry; and*
 - (h) One (1) licensed pharmacist selected by the Kentucky Board of Pharmacy.*
- (2) The council shall meet at least quarterly to discuss matters relating to the safe and appropriate prescribing and dispensing of controlled substances, including:*
- (a) The review of quarterly reports issued by the Office of the Inspector General pursuant to KRS 218A.202(17) to identify potential improper, inappropriate, or illegal prescribing or dispensing of controlled substances by examining aggregate patterns of prescribing by profession of the prescriber and county where the medication was prescribed and dispensed;*
 - (b) Recommendations for improvements in data collection and reporting by the electronic system for monitoring controlled substances pursuant to KRS 218A.202;*
 - (c) Recommendations for best prescribing practices based on up-to-date research;*
 - (d) Recommendations to the professional licensing boards for actions to aid in enforcing current law, reviewing prescribing and dispensing data, and correcting improper, inappropriate, or illegal prescribing or dispensing of a controlled substance; and*
 - (e) Development and communication of any recommendations, based on review of data or research, to each licensure board. The licensure boards shall respond in writing to the panel within ninety (90) days of receiving the recommendations with an explanation of their response to the recommendations.*
- (3) The council may request information from the licensure boards regarding their procedures for conducting investigations and taking actions regarding the possible improper, inappropriate, or illegal prescribing or dispensing of controlled substances.*
- (4) On or before December 31, 2024, and each December 31 thereafter, the council shall submit an annual report to the Governor and the Legislative Research Commission. The annual report shall:*
- (a) List the council's meeting dates and topics for the preceding year;*
 - (b) Provide relevant statistical information, including a summary of the aggregate patterns by profession of prescriber and by county, of potential improper, inappropriate, or illegal prescribing or dispensing of a controlled substance;*
 - (c) Describe the efforts made by the council to share information among the licensure boards related to improving the safe and appropriate prescribing and dispensing of controlled substances;*
 - (d) Summarize responses received from the licensure boards to the panel's recommendations; and*
 - (e) Provide any policy recommendations, including recommendations for statutory or administrative regulation changes intended to improve prescribing and dispensing practices and prevent improper, inappropriate, or illegal prescribing or dispensing of controlled substances.*
- (5) The council shall not make any recommendations related to the scope of practice of any prescribing or dispensing professionals.*

- (6) *The council shall be attached to the Office of the Inspector General for administrative purposes.*
- (7) *Members shall not receive any additional compensation for their service on the council but shall be reimbursed for all necessary expenses.*

Signed by Governor March 23, 2023.

CHAPTER 74

(HB 302)

AN ACT relating to elections.

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

➔Section 1. KRS 15.243 is amended to read as follows:

- (1) In addition to the other duties and powers of the Attorney General, he or she shall enforce all of the state's election laws by civil or criminal processes.
- (2) The Attorney General shall:
 - (a) Devise and administer programs to observe the conduct of elections;
 - (b) Hold public hearings;
 - (c) Establish a toll-free telephone service for the purpose of receiving reports of election law violations. The service shall be operated during regular business hours throughout the year and during the hours which any poll in the state is open on the day of any primary, special election, or regular election;
 - (d) Initiate investigations or investigate alleged violations of election laws at the request of a registered voter or on his or her own motion;
 - (e) Issue subpoenas for the production of any books, papers, correspondence, memoranda or other records, and compel the attendance of witnesses that he or she deems relevant to the purposes of any investigation;
 - (f) Present evidence of alleged violations to a grand jury; and
 - (g) File appropriate complaints in any court of competent jurisdiction.
- (3)
 - (a) The Attorney General shall be required to begin an independent inquiry for any potential irregularities that may have occurred in each election in not fewer than twelve (12) of Kentucky's counties, to be selected at random in a public process, within twenty (20) days following each primary or regular election. ~~[-No county shall be subject to inquiry under this subsection in two (2) consecutive elections.]~~
 - (b) ***The Attorney General shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish a uniform procedure and timeline for his or her agents to follow when conducting the independent inquiries. The administrative regulations shall also designate the data and forms that shall be requested from each county that is chosen.***
 - (c) The Attorney General shall report his or her findings to the grand jury of each county involved, ~~[-and to]~~ the chief circuit judge for the circuit in which the county is located, ***and the appropriate county clerk.***
- (4) When the Registry of Election Finance concludes there is probable cause to believe a violation of election laws has occurred, it shall forward the matter to the Attorney General for prosecution. In the event the Attorney General or local prosecutor fails to prosecute the matter in a timely fashion, the registry's attorney may petition the Circuit Court to be appointed as a special prosecutor. Upon such motion timely filed, for good cause shown, the court shall enter an order to that effect.
- (5) When requested by the Attorney General, all state and local agencies and officials, including the Auditor of Public Accounts, Commonwealth's attorneys, county attorneys, Registry of Election Finance, Department of Kentucky State Police, sheriffs' departments and local police shall give all possible assistance to the Attorney General in the performance of his or her duties.

➔Section 2. KRS 117.066 is amended to read as follows:

- (1) The county board of elections may, pursuant to KRS 117.055 and subsection (3) of this section, designate a single voting location for more than one (1) precinct if the voting location is equipped with voting equipment capable of providing or accepting separate ballots without endangering the integrity of the ballots or without violating any other election law.
- (2) If a single voting location for more than one (1) precinct is approved under subsection (3) of this section, the primary or election shall be conducted as follows:
 - (a) One (1) voting equipment may be used for more than one (1) precinct if ballots are tabulated for each separate precinct, and if separate ballots may be placed upon any voting equipment to be used without endangering the integrity of the ballots or without violating any other election law. Otherwise, separate voting equipment shall be used for each precinct. In the instance of a precinct which has a small number of voters such that the use of separate voting equipment would be cost-prohibitive, the county clerk may make application to the State Board of Elections to use supplemental paper ballots under KRS 118.215 to conduct the voting for the small precinct on any primary or election day. If the use of supplemental paper ballots is approved by the State Board of Elections, at the close of voting on any primary or election day, the locked supplemental paper ballot box shall be transported to the county board of elections along with the federal provisional ballot receptacle, and ballots shall be counted by the county board of elections as provided by KRS 117.275(10) to (16);
 - (b) Separate precinct voter rosters shall be maintained for each precinct, and steps shall be taken to ensure that voters cast their ballot in their duly authorized precinct; and
 - (c) A separate set of election forms and reports required by this chapter and the State Board of Elections shall be maintained for each precinct.
- (3) The county board of elections may petition the State Board of Elections to allow the consolidation of precincts and the consolidation of precinct election officers at any voting location where voters of more than one (1) precinct vote. The petition shall be on a form prescribed by the State Board of Elections in administrative regulations promulgated under KRS Chapter 13A and shall include:
 - (a) A list of all precincts designated to vote at the voting location;
 - (b) The address and type of facility of the voting location;
 - (c) The number and type of voting systems or voting equipment to be used at the voting location;
 - (d) The number of registered voters in each precinct designated to vote at the voting location;
 - (e) An explanation of the reasons why the consolidation is desirable;
 - (f) The plan for additional precinct officers at the voting location, the manner in which they will be assigned, and whether the voting location will be fully staffed with election officials;
 - (g) The plan for how the county clerk will publicize the location for where the voting shall occur, in addition to how each location shall be noted conspicuously to residents of the county as a "Vote Center";~~and~~
 - (h) The plan for how the voting location will serve as a focal point to meet the needs of a diverse community; *and*
 - (i) *The number of parking spaces available at the location and a determination as to whether the location has sufficient parking spaces.*
- (4) If the petition submitted under subsection (3) of this section is approved by the State Board of Elections, the precinct election officers designated to serve as election officers for more than one (1) precinct shall meet the eligibility requirements of KRS 117.045.
- (5) *The Secretary of State shall retain veto authority over any petition that is approved by the State Board of Elections. The State Board of Elections, upon reconsideration of the petition, shall have the power to override a veto of the Secretary of State by a three-fourths (3/4) affirmative vote of the membership of the board.*

➔Section 3. KRS 117.235 is amended to read as follows:

- (1) No person, other than the election officers, challengers, person assisting voters in accordance with KRS 117.255(3), and a minor child in the company of a voter, shall be permitted within the voting room while the vote is being polled, except as follows:
 - (a) For the purpose of voting;
 - (b) By authority of the election officers to keep order and enforce the law;
 - (c) With the express approval of the county board of elections to repair or replace voting equipment that is malfunctioning, and to provide additional voting equipment; or
 - (d) At the voter's discretion, a minor child in the company of a voter may accompany the voter into a voting booth or other private area provided for casting a vote.
- (2) No officer of election shall do any electioneering **at any polling place during:**
 - (a) **The times the polls are open** on election day; **or**
 - (b) **Any of the days that in-person absentee voting is conducted.**
- (3)
 - (a) No person shall electioneer at ~~any~~^{the} polling place **that is being used as a voting location** on the day of any election, as established in KRS 118.025, **or on any of the days that in-person absentee voting is conducted at that location**, or within a distance of one hundred (100) feet of any entrance to a building in which voting is conducted if that entrance is unlocked and is used by voters on any primary or election day **or on any of the days that in-person absentee voting is conducted.**
 - (b) No person shall electioneer within the interior of a building or affix any electioneering materials to the exterior or interior of a building where the county clerk's office is located, or any building designated by the county board of elections and approved by the State Board of Elections for in-person absentee voting, during the hours in-person absentee voting is being conducted in the building.
 - (c) No person shall electioneer within one hundred (100) feet of a mail-in absentee drop-box or drop-receptacle.
 - (d) **No person shall electioneer in any building where training for election officers is being conducted during the time of the training.**
 - (e) Electioneering shall include the displaying of signs, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any bona fide candidate or ballot question in a manner which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question, but shall not include exit polling, bumper stickers affixed to a person's vehicle while parked within or passing through a distance of one hundred (100) feet of any entrance to a building in which voting is conducted, private property as provided in subsection (7) of this section, or other exceptions established by the State Board of Elections through the promulgation of administrative regulations under KRS Chapter 13A.
- (4) No voter shall be permitted to converse with others while in any room in which voting, including in-person absentee voting, is conducted concerning their support or nonsupport of any candidate, party, or issue to be voted on, except as provided in KRS 117.255.
- (5) Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may enforce the election laws and maintain law and order at the polls and within one hundred (100) feet of any entrance to the building in which voting is conducted if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.
- (6) Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in school children a respect for the democratic principles of voting by conducting in any county a mock election for school children in conjunction with any primary, regular, or special election. The State Board of Elections shall promulgate administrative regulations under KRS Chapter 13A regarding the mock elections to ensure that the regular voting process will not be impaired.
- (7) Notwithstanding the provisions of subsection (3) of this section, nothing in this section shall prohibit the displaying of political campaign signs on private property or private establishments by a person having a leased or ownership interest in that private property or private establishment within the campaign-free zone, regardless of the distance from the polling place. In the case of a polling location being on private property that is leased or otherwise under contract for the purpose of serving as a polling location, the provisions of subsection (3) of this section shall be applicable to that leased or contracted-for private property.

➔Section 4. KRS 117.265 is amended to read as follows:

- (1) A voter may, at any regular or special election, cast a write-in vote for any person qualified as provided in subsection (2) or (3) of this section, whose name does not appear upon the ballot for any office, by writing the name of his or her choice upon the appropriate ballot for the office being voted on as required by KRS 117.125. Any candidate~~[for city, county, urban county, consolidated local government, charter county government, or unified local government office]~~ who is defeated in a partisan or nonpartisan primary shall be ineligible as a candidate for the same office in the regular election, ***unless there is a vacancy pursuant to subsection (3) of Section 5 of this Act.*** Any voter utilizing a federal provisional ballot, a federal provisional in-person absentee ballot, or a mail-in absentee ballot for a regular or special election may write in a vote for any eligible person whose name does not appear upon the ballot, by writing the name of his or her choice under the office.
- (2) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate with the Secretary of State or county clerk, depending on the office being sought, on or before the fourth Friday in October preceding the date of the regular election and not later than the second Friday before the date of a special election. In the case of a special election administered under KRS 118.730, a declaration of intent to be a write-in candidate shall be filed at least twenty-eight (28) days before the day of the election. The declaration of intent shall be filed no earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot, and no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed. The declaration of intent shall be on a form prescribed and furnished by the Secretary of State.
- (3) A person shall not be eligible as a write-in candidate:
 - (a) For more than one (1) office in a regular or special election; or
 - (b) If his or her name appears upon the ballot for any office, except that the candidate may file a notice of withdrawal prior to filing an intent to be a write-in candidate for office when a vacancy in a different office occurs because of:
 1. Death;
 2. Disqualification to hold the office sought;
 3. Severe disabling condition which arose after the nomination; or
 4. The nomination of an unopposed candidate.
- (4) Persons who wish to run for President and Vice-President shall file a declaration of intent to be a write-in candidate, along with a list of presidential electors pledged to those candidates, with the Secretary of State on or before the fourth Friday in October preceding the date of the regular election for those offices. The declaration of intent shall be filed no earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot, and no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed. Write-in votes cast for the candidates whose names appear on the ballot shall apply to the slate of pledged presidential electors, whose names shall not appear on the ballot.
- (5) The county clerk shall provide to the precinct election officers certified lists of those persons who have filed declarations of intent as provided in subsections (2) and (3) of this section. Only write-in votes cast for qualified candidates shall be counted.
- (6) Two (2) election officers of opposing parties shall upon the request of any voter instruct the voter on how to cast a write-in vote.

➔Section 5. KRS 118.105 is amended to read as follows:

- (1) Except as provided in subsections (3) and (4) of this section and in KRS 118.115, every political party shall nominate all of its candidates for elective offices to be voted for at any regular election at a primary held as provided in this chapter, and the governing authority of any political party shall have no power to nominate any candidate for any elective office or to provide any method of nominating candidates for any elective office other than by a primary as provided in this chapter.
- (2) Any political organization not constituting a political party as defined in KRS 118.015 may make its nominations as provided in KRS 118.325.

- (3) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary **more than ten (10) days** before the certification of candidates for the regular election made under KRS 118.215, because of death ~~[, withdrawal, disqualification to hold the office sought,]~~ or severe disabling condition which arose after the nomination, the governing authority of the party may provide for filling the vacancy, but only following certification to the governing authority, by the Secretary of State, that a vacancy exists for a reason specified in this subsection. When such a nomination has been made, the certificate of nomination shall be signed by the chair and secretary of the governing authority of the party making it, and shall be filed in the same manner as certificates of nomination at a primary.
- (4) If a vacancy occurs in the nomination of an unopposed candidate or in a nomination made by the primary **more than ten (10) days** before the certification of candidates for the regular election, and if that party's nominee was the only political party candidate for the office sought, the governing authority of each party may nominate a candidate for the regular election, provided that no person has sought that party's nomination by filing a notification and declaration.
- (5) If a vacancy occurs in the nomination of a candidate under the conditions of subsection (3) or (4) of this section ~~[prior to September 15 preceding the day of the regular election],~~ certificates of nomination for replacement candidates shall be filed in the same manner as provided in subsections (3) and (4) not later than 4 p.m. **on the date of certification** ~~[ten (10) days after the vacancy occurs, excluding weekends and legal holidays. If a vacancy occurs in the nomination of a candidate under the conditions of subsection (3) or (4) of this section on or after September 15 preceding the date of the regular election, certificates of nomination for replacement candidates shall be filed in the same manner as provided in subsections (3) and (4) not later than 4 p.m. five (5) days after the vacancy occurs, excluding weekends and legal holidays.]~~
- ~~(6) If a vacancy in candidacy described in subsection (5) of this section occurs later than the second Thursday preceding the date of the regular election, no certificates of nomination shall be filed and any candidate whose name does not appear on the ballot may seek election by write in voting pursuant to KRS 117.265].~~
- ~~(6) [(7)]~~ This section does not apply to candidates for members of boards of education, or presidential electors, nor to candidates participating in nonpartisan elections. However, regardless of the number of days served by a judge acting as a Senior Status Special Judge, a judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1.

➔Section 6. KRS 118.315 is amended to read as follows:

- (1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him or her, complying with the provisions of subsection (2) of this section. No person whose registration status is as a registered member of a political party shall be eligible to election as an independent, or political organization, or political group candidate, nor shall any person be eligible to election as an independent, or political organization, or political group candidate whose registration status was as a registered member of a political party on January 1 immediately preceding the regular election for which the person seeks to be a candidate. This restriction shall not apply to candidates to those offices specified in **subsection (6) of Section 5 of this Act** ~~[KRS 118.105(7)]~~, for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the home rule class, or to candidates participating in nonpartisan elections.
- (2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. The petition shall include a declaration, sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed. Signatures for a petition of nomination for a candidate seeking any office, excluding President of the United States in accordance with KRS 118.591(1), shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer or board of education member, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be

appended to one (1) paper. Each petitioner shall include the date he or she affixes the signature, address of residence, and date of birth. Failure of a voter to include the signature affixation date, date of birth, and address of residence shall result in the signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he or she shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his or her signature is affixed.

- (3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.
- (4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.
- (5) A judge who elected to retire as a Senior Status Special Judge in accordance with KRS 21.580 shall not become a candidate or a nominee for any elected office during the five (5) year term prescribed in KRS 21.580(1)(a)1., regardless of the number of days served by the judge acting as a Senior Status Special Judge.

➔Section 7. KRS 119.165 is amended to read as follows:

- (1) Any person who falsely personates a registered voter, and receives and casts a ballot by means of such personation, shall be guilty of a Class D felony. An attempt at such personation shall constitute a Class A misdemeanor.
- (2) Any person who, by means other than falsely personating a registered voter, votes at an election in this state when he is a resident of another state or country, or votes more than once at an election, or votes by use of the naturalization papers of another person, shall be guilty of a Class D felony. Any person who knowingly votes or attempts to vote in a precinct other than the one in which he resides shall be guilty of a Class A misdemeanor, unless by voting in a precinct in which he does not live he is enabled to vote in a race or on a matter in which he could not vote in his proper precinct in which case he shall be guilty of a Class D felony. Any person who lends or hires his or another's naturalization papers to be used for the purpose of voting shall be subject to the same penalty.
- (3) ***Any person lawfully registered to vote who is then convicted of a felony offense and has not previously been restored to their voting rights who then knowingly votes or attempts to vote shall be guilty of a Class D felony.***
- (4) Any resident of this state who, by means other than falsely personating a registered voter, votes at a regular or special election before he has resided in this state thirty (30) days, or in the county and precinct where the election is held the time required by law, or before he has attained full age, or before he has become a citizen, shall be guilty of a Class B misdemeanor.

~~(5)~~~~(4)~~ Any person who, by means other than falsely personating a registered voter, votes in a primary election knowing that he is not qualified as provided in KRS 116.055, shall be guilty of a violation.

~~(6)~~~~(5)~~ Any person who applies for or receives a ballot at any voting place other than the one at which he is entitled to vote, under circumstances not constituting a violation of any of the provisions of subsections (1) to ~~(3)~~~~(4)~~ of this section, shall be guilty of a Class A misdemeanor.

➔Section 8. KRS 121.175 is amended to read as follows:

- (1) No candidate, committee, or contributing organization shall permit funds in a campaign account to be expended for any purpose other than for allowable campaign expenditures. "Allowable campaign expenditures" means expenditures including reimbursement for actual expenses, made directly and primarily in support of or opposition to a candidate, constitutional amendment, or public question which will appear on the ballot and includes, but is not limited to, expenditures for staff salaries, gifts and meals for volunteer campaign workers, food and beverages provided at a campaign rally, advertising, office space, necessary travel if reported, campaign paraphernalia, purchases of advertisements in athletic and scholastic publications, communications with constituents or prospective voters, polling and consulting, printing, graphic arts, or advertising services, postage, office supplies, stationery, newsletters, and equipment which is used primarily for the administration of the campaign, ***or for fees incurred from legal services while defending a matter before the Kentucky Legislative Ethics Commission in which the final adjudication is rendered in favor of the candidate.*** "Allowable campaign expenditures" does not include necessary travel unless reported, expenditures of funds in a campaign account for any purpose made unlawful by other provisions of the

Kentucky Revised Statutes or which would bestow a private pecuniary benefit, except for payment of the reasonable value of goods and services provided upon a candidate, member of the candidate's family, committee, or contributing organization, or any of their employees, paid or unpaid, including: tickets to an event which is unrelated to a political campaign or candidacy; items of personal property for distribution to prospective voters except items bearing the name, likeness, or logo of a candidate or a campaign-related communication; expenditures to promote or oppose a candidacy for a leadership position in a governmental, professional, or political organization, or other entity; and equipment or appliances the primary use of which is for purposes outside of the campaign. The provisions of KRS 121.190 notwithstanding, a candidate shall not be required to include a disclaimer on campaign stationery purchased with funds from his campaign account. A member of the General Assembly may utilize funds in his or her campaign account to contribute up to five thousand dollars (\$5,000) per year to a political party or caucus campaign committee. A member of the General Assembly may make allowable campaign expenditures in both election years and nonelection years.

- (2) By December 31, 1993, the registry shall promulgate administrative regulations to implement and enforce the provisions of subsection (1) of this section.
- (3) In lieu of the penalties provided in KRS 121.140 and 121.990 for a violation of this section, the registry may, after hearing:
 - (a) For a violation which was not committed knowingly, order the violator to repay the amount of campaign funds which were expended for other than allowable campaign expenditures, and if not repaid within thirty (30) days, may impose a fine of up to one hundred dollars (\$100) for each day the amount is not repaid, up to a maximum fine of one thousand dollars (\$1,000); and
 - (b) For a violation which was committed knowingly, in addition to referring the matter for criminal prosecution, order the violator to repay the amount of campaign funds which were expended for other than allowable campaign expenditures, and if not repaid within thirty (30) days, may impose a fine of up to one hundred dollars (\$100) for each day the amount is not repaid, up to a maximum fine of one thousand dollars (\$1,000).

➔Section 9. KRS 121.180 is amended to read as follows:

- (1) (a) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section if the candidate, slate of candidates, or political issues committee chair files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of three thousand dollars (\$3,000) in any one (1) election. A separate form shall be required for each primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot. The form shall be submitted by means of electronic filing with the registry.
- (b) For a primary, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph (c) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than thirty (30) days preceding the primary. For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than sixty (60) days preceding the regular election, except as provided in subparagraph 2. of paragraph (c) of this subsection. For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than thirty (30) days preceding the special election. A political issues committee chair shall file a request for exemption when the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than thirty (30) days preceding the date the issue appears on the ballot.
- (c)
 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner shall file all reports required of a candidate intending to raise or spend in excess of three thousand dollars (\$3,000) in an election. To revoke the request for an exemption, the candidate or slate of candidates shall file the appropriate form with the registry not later than the deadline for filing a revocation.
 2. A candidate or slate of candidates that is exempted from campaign finance reporting requirements pursuant to paragraph (a) of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports

required for the remainder of that election, based upon the amount of contributions or expenditures the candidate or slate of candidates accepts or receives in that election.

- (d) Any candidate or slate of candidates that is subject to a June or August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph (c) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than sixty (60) days preceding the regular election. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph (c) of this subsection.
- (e) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed a request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph (c) of this subsection if a candidate or slate of candidates that is subject to a June or August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph (c) of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph (c) of this subsection.
- (f) Except as provided in subparagraph 2. of paragraph (c) of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph (c) of this subsection.
- (g) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (c) of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph (c) of this subsection.
- (h) If the opponent of a candidate or slate of candidates is replaced due to his or her withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (c) of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph (c) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.
- (i) A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under paragraph (a) of this subsection and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days preceding the regular or special election. A person intending to be a write-in candidate who revokes a request for exemption in a timely manner shall file all reports required of a candidate intending to raise or spend in excess of three thousand dollars (\$3,000) in an election. Except as provided in subparagraph 2. of paragraph (c) of this subsection, a person intending to be a write-in candidate who revokes a request for exemption shall file the appropriate form with the registry.
- (j) Except as provided in subparagraph 2. of paragraph (c) of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chair has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner.
- (k)
 1. Except as provided in subparagraph 2. of paragraph (c) of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (d), or (i) of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not less than five hundred dollars (\$500).
 2. Except as provided in subparagraph 2. of paragraph (c) of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (d), or (i) of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one

(1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.

- (1)
 1. Any candidate exempt from filing under this subsection for a primary shall file a report described in subsection (4) of this section.
 2. Any candidate exempt from filing under this subsection for a primary who advances to the regular election shall file for an additional exemption under this section for the regular election or the candidate shall no longer be exempt from the filing requirements.
 3. In the event a candidate exempt from filing under this subsection is no longer eligible for the exemption, he or she shall immediately file for a revocation of the exemption under paragraph (c) of this subsection.
- (2)
 - (a) State and county executive committees, and caucus campaign committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made, since the date of the last report, including:
 1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 2. For other contributions in excess of one hundred dollars (\$100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he or she is doing business shall be listed;
 3. The total amount of cash contributions received during the reporting period; and
 4. A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.
 - (b) In addition to the reporting requirements in paragraph (a) of this subsection, the state executive committee of a political party that has established a building fund account under KRS 121.172 shall make a full report, upon a prescribed form, to the registry, of all contributions received from any source, and expenditures authorized, incurred, or made, since the date of the last report for the separate building fund account, including:
 1. For each contribution of any amount made by a corporation, the name and business address of the corporation, the date of the contribution, the amount contributed, and a description of the major business conducted by the corporation;
 2. For other contributions in excess of one hundred dollars (\$100), the full name and address of the contributor, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he or she is doing business shall be listed;
 3. The total amount of cash contributions received during the reporting period; and
 4. A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.
 - (c) The report required by paragraph (a) of this subsection shall be made on a semiannual basis ***if the committee has more than ten thousand dollars (\$10,000) in its campaign fund account***, and shall be received by the registry by January 31 and by July 31. The January report shall cover the period from July 1 to December 31. The July report shall cover the period from January 1 to June 30. ***If the committee has less than ten thousand dollars (\$10,000) in its campaign fund account the report required by paragraph (a) of this subsection shall be made on an annual basis, and shall be received by the registry by January 31.*** If an individual gives a reportable contribution to a caucus campaign committee or to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The report required by paragraph (b) of this subsection relating to a state executive committee's building fund account shall be received by the registry within

two (2) business days after the close of each calendar quarter. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required by this subsection to be received by the registry by January 31.

- (3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars (\$3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars (\$3,000) in any one (1) election, shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:
1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 2. For each contribution in excess of one hundred dollars (\$100) made to any candidate or campaign committee or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he or she is doing business shall be listed;
 3. The total amount of cash contributions received during the reporting period; and
 4. A complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.
- (b) Reports of all candidates, slates of candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:
1. a. Candidates seeking statewide office, slates of candidates, authorized campaign committees for candidates seeking statewide office and for slates of candidates, unauthorized campaign committees, political issues committees, and fundraisers which register before the year of an election in which the candidate, a slate of candidates, or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after persons become statewide candidates or slates of candidates, or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. The provisions of this subparagraph shall be retroactive to January 1, 2021;
 - b. All other candidates and candidate campaign committees shall file annual financial reports to be received by the registry on or before December 1 for each year that a candidate is not yet on the ballot but has filed a Statement of Spending Intent and Appointment of Campaign Treasurer with the registry for a future-year election; and
 - c. Candidates, slate of candidates, or committees shall make all reports required by subparagraphs 2. to 5. of this paragraph during the year in which the election takes place;
 2. All candidates, slates of candidates, candidate-authorized and unauthorized campaign committees, political issues committees, and registered fundraisers shall make reports on the sixtieth day preceding a regular election, including all previous contributions and expenditures;
 3. All candidates, slates of candidates, candidate-authorized and unauthorized campaign committees, political issues committees, and registered fundraisers shall make reports on the thirtieth day preceding an election, including all previous contributions and expenditures;

4. All candidates, slates of candidates, candidate-authorized and unauthorized campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and
 5. All reports to the registry shall cover campaign activity during the entire reporting period and must be received by the registry within two (2) business days after the date the reporting period ends to be deemed timely filed.
- (4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(a) of this section, all candidates, regardless of funds received or expended, candidate-authorized and unauthorized campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election. All post-election reports to the registry shall cover campaign activity during the entire reporting period and must be received by the registry within two (2) business days after the date the reporting period ends to be deemed timely filed.
 - (5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars (\$100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer or, if the purchaser is self-employed, the name under which he or she is doing business, and the amount of the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars (\$100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer or, if the purchaser is self-employed, the name under which he or she is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.
 - (6) Each permanent committee, except a federally registered permanent committee, inaugural committee, or contributing organization shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value, received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:
 - (a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 - (b) For other contributions in excess of one hundred dollars (\$100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he or she is doing business shall be listed;
 - (c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and
 - (d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures on a form provided or using a format approved by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be received on or before each filing deadline, and any report received by the registry within two (2) business days after each filing deadline shall be deemed timely filed.
 - (7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30)

days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be received by the registry by December 1 of each year, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. All post-election reports to the registry shall cover campaign activity during the entire reporting period and must be received by the registry within two (2) business days after the date the reporting period ends to be deemed timely filed. All contributions shall be subject to KRS 121.150 as of the date of the election in which the candidate appeared on the ballot.

- (8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry.
- (9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:
 - (a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;
 - (b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and
 - (c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.
- (10)
 - (a) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to:
 1. Further the candidacy of the person for a different public office;
 2. Support or oppose a different public issue; or
 3. Further the candidacy of any other person for public office.
 - (b) Nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in a campaign account to purchase admission tickets for, or contribute to, any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase or contribution does not exceed two hundred dollars (\$200) per event or affair.
 - (c) Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot.
 - (d) Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee:
 1. Escheat to the State Treasury;
 2. Be returned pro rata to all contributors;
 3. In the case of a partisan candidate, be transferred to:
 - a. A caucus campaign committee; or
 - b. The state or county executive committee of the political party of which the candidate is a member;
 4. Be retained to further the same public issue or to seek election to the same office; or

5. Be donated to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto, *from which the candidate or committee receives no financial benefit.*
- (11) If adequate and appropriate agency funds are available to implement this subsection, electronic reporting shall be made available by the registry to all candidates, slates of candidates, committees, contributing organizations, registered fundraisers, and persons making independent expenditures. The electronic report submitted to the registry shall be the official campaign finance report for audit and other legal purposes, whether mandated or filed by choice.
- (12) The date that an electronic or on-line report shall be deemed to have been filed with the registry shall be the date on which it is received by the registry.
- (13) All electronic or online filers shall affirm, under penalty of perjury, that the report filed with the registry is complete and accurate.
- (14) Filers who submit electronic campaign finance reports which are not readable, or cannot be copied shall be deemed to not be in compliance with the requirements set forth in this section.
- (15) Beginning with the primary scheduled in calendar year 2020, and for each subsequent election scheduled thereafter, reports required to be submitted to the registry involving candidates, slates of candidates, committees, contributing organizations, and independent expenditures shall be reported electronically.
- (16) (a) On each form that the registry supplies for the reports required under subsections (2), (3), and (6) of this section, the registry shall include an entry reading, "No change since last report."
- (b) If a person or entity that is required to report under subsection (2), (3), or (6) of this section has received no money, loans, or other things of value from any source since the date of its last report and has not authorized, incurred, or made any expenditures since that date, the person or entity may check or otherwise designate the entry that reads, "No change since last report." A person or entity designating this entry in a report shall state the balance carried forward from the last report but need not specify receipts or expenditures in further detail.

Signed by Governor March 23, 2023.

CHAPTER 75

(HB 303)

AN ACT relating to economic development.

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

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

- (1) There is created the Commission on Small Business Innovation and Advocacy. The commission shall be a separate administrative body of state government within the meaning of KRS 12.010(8).
- (2) It shall be the purpose of the Commission on Small Business Innovation and Advocacy to:
- (a) Address matters of small business as it relates to government affairs;
- (b) Promote a cooperative and constructive relationship between state agencies and the small business community to ensure coordination and implementation of statewide strategies that benefit small business in the Commonwealth;
- (c) Coordinate and educate the small business community of federal, state, and local government initiatives of value and importance to the small business community;
- (d) Create a process by which the small business community is consulted in the development of public policy as it affects their industry sector;
- (e) Aid the small business community in navigating the regulatory process, when that process becomes cumbersome, time consuming, and bewildering to the small business community; and

- (f) Advocate for the small business, as necessary when regulatory implementation is overly burdensome, costly, and harmful to the success and growth of small businesses in the Commonwealth.
- (3) The Commission on Small Business Innovation and Advocacy shall consist of thirteen (13) members:
 - (a) Two (2) members representing each congressional district; and
 - (b) One (1) at-large member.
- (4) All members shall be appointed by the Governor for a term of four (4) years, except that the original appointments shall be staggered so that three (3) appointments shall expire at one (1) year, three (3) appointments shall expire at two (2) years, and three (3) appointments shall expire at three (3) years, and four (4) appointments shall expire at four (4) years from the dates of initial appointment.
- (5) The Governor shall appoint the chair and vice chair of the commission from the appointed membership.
- (6) The commission shall meet quarterly and at other times upon call of the chair or a majority of the commission.
- (7) A quorum shall be a majority of the membership of the commission.
- (8) 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.
- (9) The executive director of the Office of Entrepreneurship and ~~Small Business~~ Innovation shall be the administrative head and chief executive officer of the commission. The secretary of the Cabinet for Economic Development shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.
- (10) The Commission on Small Business Innovation and Advocacy shall be administratively attached to the Office of Entrepreneurship and ~~Small Business~~ Innovation within the Cabinet for Economic Development.

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

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

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

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- (4) Department of Law.
 - (a) Attorney General.
- (5) Department of the Treasury.
 - (a) Treasurer.
- (6) Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) 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) 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) 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.
 - 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.
- (4) 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) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 1. Office of Legal Services.
 2. Department for Business *and Community* Development.
 - a. *Development and Retention Division - West Kentucky.*
 - b. *Development, Retention, and Administrative Division - Central and East Kentucky.*
 - c. *Community and Workforce Development Division.*
 3. Department for Financial Services.
 - a. Kentucky Economic Development Finance Authority.

ACTS OF THE GENERAL ASSEMBLY

- b. Finance and Personnel Division.
 - c. IT and Resource Management Division.
 - d. Compliance Division.
 - e. **Program**~~[Incentive]~~ Administration Division.
 - f. Bluegrass State Skills Corporation.
 - 4. Office of **Strategy**~~[Marketing]~~ and Public Affairs.
 - a. **Marketing and** Communications Division.
 - b. **Research and Strategy**~~[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) 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.
 - 10. Office of Data Analytics.
 - (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.
- (7) 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.
 - (x) Office of Fleet Management.
- (8) 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 Purchasing.
 - 5. Division of Facilities.
 - 6. Division of Park Operations.
 - 7. Division of Sales, Marketing, and Customer Service.
 - 8. Division of Engagement.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - (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) 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.
 - f. Employment First Council.
 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 3. KRS 141.310 is amended to read as follows:

- (1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.
- (2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.
- (3) If wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.
- (4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.
- (5) The tables mentioned in subsection (1) of this section shall consider the standard deduction.
- (6) The department may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation produces substantially the same result as set forth in the tables authorized by KRS 141.370. Prior approval of the calculation shall be secured from the department at least thirty (30) days before the first payroll period for which it is to be used.
- (7) The department may, by administrative regulations, authorize employers:
 - (a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;
 - (b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and
 - (c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.

- (8) The department may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.
- (9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.24-110 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee or the Commonwealth's contribution of KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply, the offset, the offset shall be one hundred percent (100%) of the assessment.
- (10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees an assessment provided in KRS 154.22-070 or KRS 154.28-110 may offset the fee against the Kentucky income tax required to be withheld from the employee under this section.
- (11) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee, or if the agreement under KRS 154.26-090(1)(f)2. is consummated, the offset shall be one hundred percent (100%) of the assessment fee.
- (12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the ~~wage~~~~[job development]~~ assessment fee provided in **Section 20 of this Act**~~[KRS 154.23-055]~~ may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be equal to **the amount of the Kentucky income tax credit authorized for the assessed employee who is entitled to receive a simultaneous adjustment resulting from an approved jobs retention project as provided in Section 20 of this Act**~~[the Commonwealth's contribution as determined by KRS 154.23-055(1) to (3)]~~.
- (13) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.32-090 may offset the state portion of the assessment against the Kentucky income tax required to be withheld from the employee under this section.
- (14) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the department. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the department, but shall not exceed fifty thousand dollars (\$50,000).
- (15) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees an assessment provided in KRS 154.27-080 may offset the assessment against the Kentucky income tax required to be withheld from the employee under this section.
- (16) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.
- (17) **An approved company and any associated loan-out entity under Subchapter 61 of KRS Chapter 154 required to withhold Kentucky income tax from employees on all qualified payroll expenditures shall withhold at the maximum rate provided in KRS 141.020, and remit and certify the withheld amount to the department.**

➔Section 4. KRS 141.350 is amended to read as follows:

The amount deducted and withheld as tax under KRS 141.310 and 141.315 during any calendar year upon the wages of any individual and the amount of credit described in KRS 154.22-070(2), ~~[154.23-055,]~~ 154.24-110, 154.24-150(3) and (4), **Section 20 of this Act**, 154.26-100(2), 154.27-080, 154.28-110, or 154.32-090 shall be allowed as a credit to the recipient of the income against the tax imposed by KRS 141.020, for taxable years beginning in the calendar year. If more than one (1) taxable year begins in the calendar year, the amount shall be allowed as a credit against the tax for the last taxable year so beginning.

➔Section 5. KRS 141.383 is amended to read as follows:

- (1) As used in this section:

- (a) "Above-the-line production crew" has the same meaning as in KRS 154.61-010;
 - (b) "Approved company" has the same meaning as in KRS 154.61-010;
 - (c) "Authority" has the same meaning as in KRS 154.61-010;
 - (d) "Below-the-line production crew" has the same meaning as in KRS 154.61-010;
 - (e) **"Continuous film production" has the same meaning as in Section 30 of this Act;**
 - (f) **"Loan-out entity" has the same meaning as in Section 30 of this Act;**
 - (g) "Qualifying expenditure" has the same meaning as in KRS 154.61-010;
 - ~~(h)(f)~~ "Qualifying payroll expenditure" has the same meaning as in KRS 154.61-010;
 - ~~(i)(g)~~ "Secretary" has the same meaning as in KRS 154.61-010; and
 - ~~(j)(h)~~ "Tax incentive agreement" has the same meaning as KRS 154.61-010.
- (2) (a) There is hereby created a tax credit against the tax imposed under KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205.
- (b) The incentive available under paragraph (a) of this section is:
1. A refundable credit for applications approved prior to April 27, 2018;
 2. A nonrefundable and nontransferable credit for applications approved on or after April 27, 2018, but before January 1, 2022; and
 3. A refundable credit for applications approved on or after January 1, 2022, if the provisions of paragraph (c) of this subsection are met.
- (c) 1. The total tax incentive approved under KRS 154.61-020 shall be limited to:
- a. One hundred million dollars (\$100,000,000) for calendar year 2018 and each calendar year through the calendar year 2021;~~and~~
 - b. Seventy-five million dollars (\$75,000,000) for the calendar year 2022 and each calendar year thereafter; **and**
 - c. **Beginning with calendar year 2024, the amount in subdivision b. of this subparagraph shall be allocated accordingly:**
 - i. **Twenty-five million dollars (\$25,000,000) shall be allocated for all approved companies with a continuous film production; and**
 - ii. **On the first day of July of each calendar year, any unused balance allocated under subpart i. of this subdivision for continuous film productions, shall be made available for all approved companies with a motion picture or entertainment production.**
2. ~~Beginning January 1, 2022,~~ To qualify for the refundable credit, all applicants shall:
- a. Begin **filming or** production **in Kentucky** within six (6) months of **approval by**~~filing an application with~~ the authority; and
 - b. Complete **filming or** production **in Kentucky** within two (2) years of their production start date.
- (3) ~~Beginning January 1, 2022,~~ An approved company may receive a refundable tax credit if:
- (a) The department has received notification from the authority that the approved company has satisfied all requirements of KRS 154.61-020 and 154.61-030; and
 - (b) The approved company has provided a detailed cost report and sufficient documentation to the authority, which has been forwarded by the authority to the department, that:
 1. The purchases of qualifying expenditures were made after the execution of the tax incentive agreement; and

2. The approved company *or loan-out entity* has withheld income tax as required by KRS 141.310 on all qualified payroll expenditures, *and remitted and certified the withheld amount to the department.*
- (4) Interest shall not be allowed or paid on any refundable credits provided under this section.
- (5) The department may promulgate administrative regulations under KRS Chapter 13A to administer this section.
- (6) On or before September 1, 2010, and on or before each September 1 thereafter, for the immediately preceding fiscal year, the department shall report to the authority and the Interim Joint Committee on Appropriations and Revenue the names of the approved companies and the amounts of refundable income tax credit claimed.
- (7) No later than September 1, 2021, and by ~~November~~~~September~~ 1 every four (4) years thereafter, the department and the Cabinet for Economic Development shall cooperatively provide historical data related to the tax credit allowed in this section and KRS 154.61-020 and 154.61-030, including data items beginning with tax credits claimed for taxable years beginning on or after January 1, 2018:
- (a) The name of the taxpayer claiming the tax credit;
 - (b) The date that the application was approved and the date the filming or production was completed;
 - (c) The taxable year in which the taxpayer claimed the tax credit;
 - (d) The total amount of the tax credit, including any amount denied, any amount applied against a tax liability, any amount refunded, and any amount remaining that may be claimed on a return filed in the future;
 - (e) Whether the taxpayer is a Kentucky-based company as defined in KRS 154.61-010;
 - (f) Whether the taxpayer films or produces a:
 1. Feature-length film, television program, or industrial film;
 2. National touring production of a Broadway show; or
 3. Documentary;
 - (g) Whether the filming or production was performed:
 1. Entirely in an enhanced county; or
 2. In whole or in part in any Kentucky county other than in an enhanced incentive county;
 - (h) The amount of qualifying expenditures incurred by the taxpayer;
 - (i) The amount of qualifying payroll expenditures paid to:
 1. Resident below-the-line crew; and
 2. Nonresident below-the-line production crew;
 including the number of crew members in each category;
 - (j) The amount of qualifying payroll expenditures paid to:
 1. Resident above-the-line crew; and
 2. Nonresident above-the-line crew;
 including the number of crew members in each category; and
 - (k) A brief description of the type of motion picture or entertainment production project.
- (8) The information required to be reported under this section shall not be considered confidential taxpayer information and shall not be subject to KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes prohibiting disclosure or reporting of information.
- ➔Section 6. KRS 154.12-2035 is amended to read as follows:
- (1) The cabinet shall maintain a searchable electronic database on its ~~website~~~~Web site~~ containing information on the cost and status of the programs listed in subsection (3)(a) of this section. The database shall include all projects approved at any time in the last five (5) years and shall include for each, where applicable, the following information:

- (a) The name of the program, the recipient or participant, the type of project, and its location by county;
 - (b) Total and approved costs of the project or investment, and the amount of incentives or other benefits authorized;
 - (c) For the Kentucky Business Investment Program and the Kentucky Enterprise Initiative Act, the amount of incentives or other benefits actually recovered as self-reported by the recipient;
 - (d) The number of new jobs estimated and, for the Kentucky Business Investment Program, actually created, along with wage information for those jobs;
 - (e) Project status and the date and nature of the most recent activity; and
 - (f) Any other comparable data or information necessary to achieve transparency and accountability for the specified programs.
- (2) In addition to the electronic database required in subsection (1) of this section, the cabinet shall prepare an annual report on the programs listed in subsection (3) of this section and make it available on the Cabinet for Economic Development ~~website~~ [Web site] by November 1 of each year. The report shall include all projects approved in the preceding fiscal year and shall provide for these projects the information specified in subsection (1) of this section plus aggregate data for each program, summary evaluations of program activity and effectiveness, and anything required by statute to be reported for any particular program. The report shall also list all projects that were approved in prior years but active at any time in the preceding fiscal year, although for these projects the report need not provide further data.
- (3) The following programs shall be subject to the reporting requirements of this section:
- (a) The electronic database required in subsection (1) of this section shall include the Bluegrass State Skills Corporation, grants-in-aid and skills training investment credit; Kentucky Business Investment Program; Kentucky Enterprise Initiative Act; Office of Entrepreneurship and ~~{Small Business }~~Innovation programs; Incentives for Energy-related Business Act; Kentucky Economic Development Finance Authority small business and direct loan programs; Kentucky Industrial Revitalization Act; Kentucky Reinvestment Act; Kentucky Small Business Tax Credit; economic development bonds; Kentucky Industrial Development Act; Kentucky Jobs Development Act; Kentucky Jobs Retention Act; the Kentucky Rural Economic Development Act; and
 - (b) The annual report required by subsection (2) of this section shall include all programs listed in paragraph (a) of this subsection plus the Kentucky Investment Fund Act, and tax increment financing, state participation projects.
- (4) The cabinet shall coordinate with any other agency necessary to supply the information required by this section.

➔Section 7. KRS 154.12-204 is amended to read as follows:

As used in KRS 154.12-205 to 154.12-208, unless the context requires otherwise:

- (1) "Agribusiness" has the same meaning as in KRS 154.32-010;
- (2) "Alternative fuel production" has the same meaning as in KRS 154.32-010;
- (3) "Applicant" means a business or industry that has made application for a grant-in-aid or skills training investment credit as authorized by KRS 154.12-205 to 154.12-208;
- (4) "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 corporation to receive grant-in-aid or skills training investment credits as provided by KRS 154.12-205 to 154.12-208;
- (5) "Approved costs" means costs confirmed as eligible by the corporation, including:
 - (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) The cost of supplies and materials used exclusively in an occupational upgrade training program or skills upgrade training program sponsored by an approved company;
 - (c) Employee wages to be paid in connection with an occupational upgrade training program or skills upgrade training program sponsored by an approved company; and
 - (d) All other costs of a nature comparable to those described in this subsection;
- (6) "Board" means the board of directors of the Bluegrass State Skills Corporation;
 - (7) "Carbon dioxide *or hydrogen* transmission pipeline" has the same meaning as in KRS 154.32-010;
 - (8) "Coal severing and processing" has the same meaning as in KRS 154.32-010;
 - (9) "Corporation" means the Bluegrass State Skills Corporation, or BSSC;
 - (10) "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;
 - (11) "Employee" means any person:
 - (a) Who is currently a permanent full-time employee of the qualified company;
 - (b) Who is a resident of Kentucky, as that term is defined in KRS 141.010; and
 - (c) Who is paid the minimum base hourly wage plus employee benefits equal to or greater than fifteen percent (15%) of the minimum base hourly wage. If the qualified company does not provide employee benefits equal to at least fifteen percent (15%) of the minimum base hourly wage, the qualified company may still qualify if it provides the full-time employee total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the minimum base hourly wage through increased hourly wages combined with at least one (1) company-paid employee benefit;
 - (12) "Energy-efficient alternative fuel production" has the same meaning as in KRS 154.32-010;
 - (13) "Gasification production" has the same meaning as in KRS 154.32-010;
 - (14) "Grant-in-aid" means funding that is provided to qualified companies by the BSSC for the development or expansion of a program as provided in this chapter;
 - (15) "Headquarters" has the same meaning as in KRS 154.32-010;
 - (16) "Hospital" has the same meaning as in KRS 154.32-010;
 - (17) "Manufacturing" has the same meaning as in KRS 154.32-010;
 - (18) "Minimum base hourly wage" means the minimum wage amount paid to an employee by a qualified company, which shall not be less than one hundred fifty percent (150%) of the federal minimum wage;
 - (19) "Nonretail service or technology" means the same as in KRS 154.32-010;
 - (20) "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;
 - (21) "Program" or "program of skills training or education consistent with employment needs" means a coordinated course of instruction which is designed to prepare individuals for employment in a specific trade, occupation, or profession. Such instruction may include:
 - (a) Classroom instruction;
 - (b) Classroom-related field, shop, factory, office, or laboratory work; and
 - (c) Basic skills, entry level training, job upgrading, retraining, and advance training;
 - (22) (a) "Qualified company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other legal entity through which business is conducted that is engaged in or is planning to be engaged in one (1) or more of the following activities within the Commonwealth:
 - 1. Manufacturing;

2. Agribusiness;
3. Nonretail service or technology;
4. Headquarter operations, regardless of the underlying business activity of the company;
5. Alternative fuel, gasification, energy-efficient alternative fuel, or renewable energy production;
6. Carbon dioxide *or hydrogen* transmission pipeline;
7. Coal severing and processing; or
8. Hospital operations.

(b) "Qualified company" does not include companies where the primary activity to be conducted within the Commonwealth is forestry, fishing, the provision of utilities, construction, wholesale trade, retail trade, real estate, rental and leasing, accommodation and food services, or public administration services;

(23) "Renewable energy production" means the same as in KRS 154.32-010;

(24) "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, and training that is designed to enhance 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;

(25) "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 this subchapter; and

(26) "Technical assistance" means professional and any other assistance provided by qualified companies to an educational institution, which is reasonably calculated to support directly the development and expansion of a particular program as defined herein.

➔Section 8. KRS 154.12-207 is amended to read as follows:

(1) The corporation may, subject to appropriation from the General Assembly or from funds made available to the corporation from any other public or private source, provide grants-in-aid to qualified companies, not in excess of ~~five~~^{two} hundred thousand dollars ~~(\$500,000)~~~~(\$200,000)~~ per grant-in-aid. Such grants-in-aid shall be used exclusively for programs which are consistent with the provisions of this chapter.

(2) The corporation may, in accordance with KRS 154.12-204 to 154.12-208, award a skills training investment credit to an approved company. The amount of the skills training investment credit awarded by the corporation shall be an amount not to exceed fifty percent (50%) of the amount of approved costs incurred by the approved company in connection with its program of occupational upgrade training or skills upgrade training, the credit amount not to exceed two thousand dollars (\$2,000) per trainee and, in the aggregate, not to exceed ~~five~~^{two} hundred thousand dollars ~~(\$500,000)~~~~(\$200,000)~~ for each approved company per fiscal year. The corporation shall only approve one (1) application per fiscal year for each approved company.

(3) To apply for a grant-in-aid or a skills training investment credit, a qualified company shall submit an application to the Bluegrass State Skills Corporation before commencing its program of skills upgrade or occupational upgrade training. Each application shall contain information the corporation requires, including but not limited to:

- (a) A proposal for a program of skills upgrade training, occupational upgrade training, and education;
- (b) A description of each component of the proposed training program and the number of employee training hours requested; and
- (c) A statement of the total anticipated costs and expenses of the program, including a breakdown of the costs associated with equipment, personnel, facilities, and materials.

(4) Approval of the grant-in-aid and skills training investment credit application by the board shall be based upon the following criteria:

- (a) The program must be within the scope of KRS 154.12-204 to 154.12-208;
- (b) Participants in the program must qualify as an employee as defined by KRS 154.12-204;

- (c) The program must involve an area of skills upgrade training, occupational upgrade training, and education which is needed by a qualified company and for which a shortage of qualified individuals exists within the Commonwealth; and
 - (d) The grant-in-aid and skills training investment credit must be essential to the success of the program as the resources are inadequate to attract the technical assistance and financial support necessary from a qualified company.
- (5) After a review of applications for grant-in-aid and skills training investment credits, the corporation may designate the qualified company as an approved company and approve the maximum amount of grants and skills training investment credits the approved company is eligible to receive. The maximum amount of skills training investment credits approved for all qualified companies by the corporation shall not exceed two million five hundred thousand dollars (\$2,500,000) for each fiscal year. Skills training investment credits that remain unallocated by the corporation at the end of its fiscal year shall lapse and shall not be carried forward to a new fiscal year.
- (6) The approved company shall complete all programs of skills upgrade training or occupational upgrade training within one (1) year from the date of approval by the corporation and shall certify the completion of these programs to the corporation. Once they are completed and certified and all required documentation is provided and received by the corporation, the corporation shall disburse the grant funds or notify the approved company of the final authorized skills training investment credit.

➔Section 9. KRS 154.12-223 is amended to read as follows:

- (1) There is created within the Cabinet for Economic Development the Department for Business *and Community* Development, which shall be headed by a commissioner appointed by the Governor. The department shall work with each Kentucky county *and community* in:
- (a) Providing customer service and project management with new and existing industries;
 - (b) Overseeing programs and initiatives designed to support new investment, job creation, and retention across the state;
 - (c) Providing sufficient technical resources to create and maintain a database to facilitate sales transactions between Kentucky businesses;~~and~~
 - (d) Administering activities related to business site selection; *and*
 - (e) *Collaborating with community partners and other agencies on workforce and economic development opportunities.*
- (2) *The department shall include the following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:*
- (a) *The Development and Retention Division – West Kentucky;*
 - (b) *The Development, Retention, and Administrative Division – Central and East Kentucky; and*
 - (c) *The Community and Workforce Development Division*~~[The following programs shall be attached to the Department for Business Development:~~
 - ~~(a) The Kentucky port and river development program created by KRS 65.510 to 65.530, KRS 139.483, and KRS 154.80-100 to 154.80-130; and~~
 - ~~(b) The Waterway Marina Development Program established by KRS 154.80-310].~~

➔Section 10. KRS 154.12-224 is amended to read as follows:

- (1) There is created in the Cabinet for Economic Development the Department for Financial Services. The department shall be headed by a commissioner appointed by the secretary pursuant to KRS 154.10-050. The department shall coordinate administration and monitoring of all financial assistance, tax credit, and related programs available for business and industry and shall provide all budgeting, accounting, personnel services, and information technology necessary for proper administration of the cabinet and cabinet programs.
- (2) The department shall include the following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:
- (a) The Finance and Personnel Division, which shall provide financial, personnel, facility, and contract administration services;

- (b) The Compliance Division, which shall monitor incentives and collect and maintain data on incentives after they are awarded;
 - (c) The **Program**~~Incentive~~ Administration Division, which shall coordinate necessary documentation and assist the Department for Business **and Community** Development in preparing recommendations and finalizing documents for presentation to the authority or other body for consideration and approval; and
 - (d) The IT and Resource Management Division, which shall coordinate facility services and internal information technology needs.
- (3) The department shall include the Kentucky Economic Development Finance Authority.
 - (4) The department shall include the Bluegrass State Skills Corporation established by KRS 154.12-205.

➔Section 11. KRS 154.12-275 is amended to read as follows:

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

➔Section 12. KRS 154.12-277 is amended to read as follows:

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

➔Section 13. KRS 154.12-278 is amended to read as follows:

- (1) As used in this section, "cluster" and "knowledge-based" shall have the same meaning as in KRS 164.6011.
- (2) The Office of Entrepreneurship and ~~Small Business~~ Innovation shall:
 - (a) Implement the Kentucky Innovation and Commercialization Center Program as set forth in KRS 154.12-300 to 154.12-310;
 - (b) Monitor the return on investments and effectiveness of the Kentucky Innovation Act initiatives as set forth in the Strategic Plan for the New Economy and prepare an annual report by November 1 of each year. The report shall be available on the Cabinet for Economic Development web page as required by KRS 154.12-2035;
 - (c) Oversee the modernization initiative in KRS 154.12-274;
 - (d) Assist the cabinet in the recruitment of research and development companies;
 - (e) Assist the cabinet in the attraction of high-technology research and development centers;
 - (f) Support growth and creation of knowledge-based, innovative companies;
 - (g) Build the infrastructure for innovative businesses and promote networks of technology-driven clusters and research intensive industries;
 - (h) Administer the high-tech construction pool and the high-tech investment pool;

- (i) Recommend projects to the Kentucky Economic Development Finance Authority for funding through the high-tech construction pool and high-tech investment pool; and
 - (j) Review and approve the annual plan which details the annual allocation of funds from the Science and Technology Funding Program. As used in this paragraph, the Science and Technology Funding Program means the Kentucky enterprise fund, the Rural Innovation Program, the Kentucky Commercialization Program, The Regional Technology Corporations/Innovation and Commercialization Center Satellites, the Experimental Program to Stimulate Competitive Research/Kentucky Science and Engineering Foundation, Small Business Innovation Research and Small Business Technology Transfer grants, and other government grant programs and funding programs as determined by the executive director of the Office of Entrepreneurship and ~~Small Business~~ Innovation.
- (3) The high-tech construction pool shall be used for projects with a special emphasis on the creation of high-technology jobs and knowledge-based companies. The executive director, in administering the high-tech construction pool, shall recommend distribution of funds and projects to the Kentucky Economic Development Finance Authority for its approval. The executive director shall recommend any designated amount of pool funds to be set aside for any match requirements. Any funds used for matching purposes may include public and private funds.
- (4) The high-tech investment pool shall be used to build and promote technology-driven industries and research-intensive industries, as well as their related suppliers, with the goal of creating clusters of innovation-driven industries in Kentucky. The executive director, in administering the high-tech investment pool, shall be authorized to recommend funds to be used to support loans and grants, or to secure an equity or related position.
- (5) The Kentucky Economic Development Finance Authority shall ensure in their approval of funding of projects that the highest priority is given to knowledge-based companies in fulfillment of the purposes and intentions of the purposes of this section.

➔Section 14. KRS 154.12-310 is amended to read as follows:

- (1) The Kentucky Innovation and Commercialization Centers are private-public partnerships, operating as a cohesive statewide infrastructure to support the implementation of key Kentucky Innovation Act initiatives.
- (2) The organization of the ICCs shall be a statewide network of Kentucky innovative hubs, with the location and services provided for each hub determined by the executive director of the Office of Entrepreneurship and ~~Small Business~~ Innovation.
 - (a) The Office of Entrepreneurship and ~~Small Business~~ Innovation shall be the central headquarters for the Kentucky innovative hubs and has primary responsibility for the following:
 - 1. Managing and administering the ICC Program;
 - 2. Establishing uniform program application, protocol, and operating guidelines when appropriate;
 - 3. Supporting the protocol by creating and funding centralized services to be distributed throughout the network; and
 - 4. Identifying those issues, opportunities, and challenges that have statewide implications.
 - (b) The regional affiliates are responsible for fulfilling the duties as set forth in KRS 154.12-305 relating to the implementation of the region's innovation strategic plan and supporting the implementation of the Kentucky Innovation Act initiatives in the region or subregion;
 - (c) The satellites are responsible for generating technology business development in their assigned geographic area, acting as a bridge between individuals and businesses needing critical early state concept and development work and the affiliate centers that can provide this support.

The affiliates and satellites provide a valuable assurance for equal access to the Kentucky Innovation Act initiatives and funding, and provide an opportunity for full participation in rural and remote, as well as metropolitan, areas of the state.

- (3) The executive director of the Office of Entrepreneurship and ~~Small Business~~ Innovation shall have all the powers and authority, not explicitly prohibited by statute, necessary and convenient to carry out and effectuate the purposes of KRS 154.12-300 to 154.12-310.

- (4) The executive director of the Office of Entrepreneurship and ~~Small Business~~ Innovation may, in effectuating the provisions of KRS 154.12-300 to 154.12-310, contract with a science and technology organization as defined in KRS 164.6011 to administer and manage the ICC Program.

➔Section 15. KRS 154.20-190 is amended to read as follows:

- (1) As used in this section:
- (a) "Authority" means the Kentucky Economic Development Finance Authority;
 - (b) "Qualifying former hospital" means a hospital facility:
 - 1. At a location that closed within thirty-six (36) months prior to an application for a loan; and
 - 2. For which the former owner or new owner has obtained a certificate of need to open a new hospital or other health facility as defined in KRS 216B.015 that provides inpatient care at the closed location; and
 - (c) "Rural hospital" means any hospital or qualifying former hospital located within a county of the Commonwealth having a population of less than fifty thousand (50,000) according to the most recent annual estimates of the resident population issued by the United States Census Bureau.
- (2) (a) The rural hospital operations and facilities revolving loan fund is established. The authority shall provide loans to a rural hospital not to exceed one million dollars (\$1,000,000) for any project within a rural hospital and shall not exceed more than two million dollars (\$2,000,000) every five (5) years.
- (b) Any loan issued by the authority shall not exceed a twenty (20) year term and shall be utilized by the Cabinet for Economic Development to assist a rural hospital in providing needed direct health care services for the citizens of the Commonwealth by:
- 1. Maintaining or upgrading the hospital's facilities;
 - 2. Maintaining or increasing the current staff of the rural hospital;
 - 3. Reopening a qualifying former hospital; or
 - 4. Providing health care services that are not currently available to citizens.
- (c) The authority shall consider a group with multiple locations eligible under this section as if each separate location is a separate entity for purposes of determining eligibility and applicable loan limits.
- (3) The Cabinet for Economic Development shall:
- (a) Determine the terms and conditions of each loan, including the repayment to be deposited back in the revolving loan fund for issuance of future loans to other rural hospitals;
 - (b) Monitor the performance of the rural hospital; and
 - (c) By **November**~~October~~ 1, **2023**~~2020~~, and by each **November**~~October~~ 1 thereafter, report to the Interim Joint Committee on Appropriations and Revenue information about each outstanding loan issued, including:
 - 1. The name and location of the rural hospital;
 - 2. The amount of principal originally loaned;
 - 3. The terms of the loan and whether the rural hospital is currently meeting those terms; and
 - 4. How the rural hospital used the loan related to facilities, staff, or additional services.
- (4) (a) The fund created in subsection (2) of this section shall be a trust and agency account.
- (b) The Cabinet for Economic Development shall administer the fund.
- (c) The fund shall consist of appropriations, contributions, donations, gifts, or federal funds.
- (d) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year.
- (e) Any interest earnings of the fund shall become a part of the fund and shall not lapse.
- (f) Moneys deposited in the fund are hereby appropriated for the sole purpose of providing loans to rural hospitals.

➔Section 16. KRS 154.20-230 is amended to read as follows:

As used in KRS 154.20-230 to 154.20-240:

- (1) "Application" means a document submitted by small businesses and investors, on a form supplied by the authority, for the purpose of requesting certification to participate in the program and to apply for a credit;
- (2) "Authority" means the Kentucky Economic Development Finance Authority;
- (3) "Commonwealth" means the Commonwealth of Kentucky;
- (4) "Credit" means the nonrefundable angel investor tax credit established by KRS 141.396 and awarded by the authority pursuant to KRS 154.20-236;
- (5) "Department" means the Department of Revenue;
- (6) "Enhanced incentive counties" has the same meaning as in KRS 154.32-010;
- (7) "Entity" means any corporation, limited liability company, business development corporation, partnership, limited partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;
- (8) "Fee" means a nonrefundable application fee in an amount set by the authority, to be collected by the authority to offset the cost of administering KRS 154.20-230 to 154.20-240;
- (9) "Full-time employee" means a person that is required to work a minimum of thirty-five (35) hours per week and is subject to the tax imposed by KRS 141.020;
- (10) "Knowledge-based" has the same meaning as in KRS 164.6011;
- (11) (a) "Qualified activity" means any knowledge-based activity related to the new economy focus areas of the Office of Entrepreneurship and ~~Small Business~~ Innovation, including but not limited to:
 1. Bioscience;
 2. Environmental and energy technology;
 3. Health and human development;
 4. Information technology and communications; and
 5. Materials science and advanced manufacturing.
- (b) A "qualified activity" does not include any activity principally engaged in by financial institutions, commercial development companies, credit companies, financial or investment advisors, brokerage or financial firms, other investment funds or investment fund managers, charitable and religious institutions, oil and gas exploration companies, insurance companies, residential housing developers, retail establishments, or any activity that the authority determines in its discretion to be against the public interest, against the purposes of KRS 154.20-230 to 154.20-240, or in violation of any law. Notwithstanding this paragraph, an entity involved in other technological advances may be deemed to be engaged in qualified activity, as determined by the executive director of the Office of Entrepreneurship and ~~Small Business~~ Innovation;
- (12) "Qualified investment" means an investment meeting the requirements of KRS 154.20-234 for qualified investments, and certified pursuant to KRS 154.20-236;
- (13) "Qualified investor" means an individual investor meeting the requirements of KRS 154.20-234 for qualified investors, and certified pursuant to KRS 154.20-236; and
- (14) "Qualified small business" means an entity meeting the requirements of KRS 154.20-234 for qualified small businesses, and certified pursuant to KRS 154.20-236.

➔Section 17. KRS 154.20-583 is amended to read as follows:

- (1) A qualified lender of a commercial loan to an eligible company shall not be eligible to apply for inducements until final approval has been made by the qualified lender and funding has been completed in accordance with the commercial loan.
- (2) Commercial loan proceeds shall be spent by the eligible company on approved costs within three (3) years of final approval, unless an extension is required by the qualified lender or necessitated by circumstances beyond the control of the eligible company or the qualified lender.

- (3) The eligible company shall submit all documentation, including documentation evidencing expenditures, as required by the qualified lender.
- (4) Qualified lenders may provide applications to an eligible company and then decide, regardless of further processing or underwriting results, to not provide final approval so long as the decision is not prohibited by state or federal law. If the qualified lender decides not to proceed, the qualified lender shall provide the application to a cooperative lender for further review and *possible* assignment to one (1) or more other qualified lenders.
- (5) A qualified lender that is unable to fund the entire amount requested in an application shall submit all or any portion of the requested amount to a cooperative lender for further review and *possible* assignment of the unfunded portion to one (1) or more qualified lenders.

➔Section 18. KRS 154.20-586 is amended to read as follows:

- (1) The eligible company shall:
 - (a) Apply for all other available assistance that is not a commercial loan, including disaster relief assistance and insurance proceeds;
 - (b) Notify the qualified lenders immediately upon application of other assistance; and
 - (c) Provide an update on the status of that assistance when requested by the qualified lenders.
- (2) The eligible company may assign any other available assistance to the qualified lender.
- (3) The qualified lender shall use the other available assistance to first pay any fees or other amounts outstanding to reduce the principal balance of the commercial loan.
- (4) *The eligible company may apply for other programs administered by the Cabinet for Economic Development for which it meets the relevant program specific eligibility.*

➔Section 19. KRS 154.20-589 is amended to read as follows:

- (1)
 - (a) There is hereby established in the State Treasury a trust and agency account to be known as the western Kentucky risk assistance fund.
 - (b) The fund shall be maintained by the Cabinet for Economic Development.
 - (c) Amounts deposited in the fund shall be used as required under subsection (2) of this section.
 - (d) Notwithstanding KRS 45.229, moneys not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.
 - (e) Any interest earnings of the fund shall become a part of the fund and shall not lapse.
 - (f) Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section.
- (2) The fund shall be used to pay a qualified lender on the unpaid principal balance of a commercial loan in an amount up to the lesser of the first twenty-five percent (25%) of the loss suffered on the unpaid principal balance on a commercial loan or one million dollars (\$1,000,000), as evidenced by the loss being determined by the following method:
 - (a) The amount of loan loss reserve the lending institution establishes based on the current expected credit losses methodology for estimating allowances for credit losses, as reflected in an official, filed call report which reflects the changes in the allowance for credit loss relating to the loan originated under this section; or
 - (b) The amount of the estimated loss as documented by an updated appraisal of the underlying collateral, or a change in economic value of the loan based on expected cash flows.
- (3) The western Kentucky risk assistance fund shall be used to provide *loan loss support payments to qualified lenders for commercial loans that, in the aggregate, have outstanding principal balances not exceeding one hundred million dollars (\$100,000,000) and have been approved for enrollment in the program following the application process set forth in subsections (4) and (5) of this section. The one hundred million dollar (\$100,000,000) maximum amount for eligible loans shall be proportionally reduced as the loss payments are disbursed* [inducement on the first two hundred million dollars (\$200,000,000) of commercial loans made and applications submitted under subsection (4) of this section].

- (4) The cabinet shall accept applications for inducements on a form created by the cabinet, which shall include the following:
- (a) The name of the qualified lender;
 - (b) The qualified lender's status of good standing by the Department of Financial Institutions;
 - (c) The Kentucky address of the physical location of the qualified lender;
 - (d) The name, e-mail address, and phone number of an employee of the qualified lender who can be contacted regarding questions about the application; and
 - (e) The amount of the commercial loan.
- (5) (a) The cabinet shall accept applications for access to the western Kentucky risk assistance fund only for a commercial loan that originated before December 31, 2027.
- (b) Applications from qualified lenders shall be approved in the order in which the applications are received, with each qualified lender being limited to a maximum of applications totaling ten million dollars (\$10,000,000) in commercial loans.
- (6) Once a loss has been suffered by a qualified lender, the cabinet shall accept requests for loss payments from the western Kentucky risk assistance fund on a form created by the cabinet that provides the following:
- (a) The name of the qualified lender;
 - (b) The qualified lender's status of good standing by the Department of Financial Institutions;
 - (c) The Kentucky address of the physical location of the qualified lender;
 - (d) The name, e-mail address, and phone number of an employee of the qualified lender, who can be contacted regarding questions about the application;
 - (e) The amount of the commercial loan;
 - (f) The requested loss payment amount calculated in accordance with subsection (2) of this section; and
 - (g) Documentation of the suffered loss.
- (7) (a) An application for a loss payment may only be submitted for losses suffered within five (5) years from the origination of the loan.
- (b) Once *a complete* ~~the~~ loss application has been submitted to the cabinet, a decision to approve or deny the application shall be made within thirty (30) days of submission.
- (c) Within sixty (60) days of *a complete* submission:
1. If approved, the amount due shall be issued to the qualified lender; or
 2. If denied, an explanation shall be sent to the qualified lender for the denial.
- (8) Should the qualified lender, at any time after the receipt of a loss payment from the western Kentucky risk assistance fund, collect more than seventy-five percent (75%) of the previously considered uncollectable balance, any portion over seventy-five percent (75%) shall be repaid to the cabinet for deposit into western Kentucky risk assistance fund, however, no more than one million dollars (\$1,000,000) shall be recovered.
- (9) Inducements shall be paid *in the order that requests for loss payments are received in accordance with subsection (6) of this section*, as long as moneys are available in the fund from the initial funding or subsequent loss collection by qualified lenders on commercial loans originating before December 31, 2027.
- (10) *An administrative fee equal to one percent (1%) of the approved inducement amount shall be applied to the loss payment and may be deducted from the approved inducement amount.*

➔Section 20. KRS 154.25-040 is amended to read as follows:

- (1) The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay an assessment *up to one hundred percent (100%) of the individual income tax rate imposed by KRS 141.020 for* ~~not to exceed five percent (5%) of the gross wages of~~ each employee subject to the income tax imposed by KRS 141.020. *The Commonwealth's wage assessment shall be equal to the following:*

- (a) *Up to eighty percent (80%) of the individual income tax rate imposed by KRS 141.020 if the project is located in a local jurisdiction where:*
1. *No local occupational license fee is imposed;*
 2. *a. A local occupational fee greater than or equal to twenty percent (20%) of the individual income tax rate in KRS 141.020 is imposed; and*
b. The local jurisdiction agrees to forgo the local wage assessment of at least twenty percent (20%) of the individual income tax rate imposed by KRS 141.020 via credits against the local occupational license fee for the affected employees; or
 3. *a. A local occupational license fee less than twenty percent (20%) of the individual income tax rate in KRS 141.020 is imposed; and*
b. The local jurisdiction agrees to forgo the total amount of the local occupational license fee as the local wage assessment; or
- (b) *Up to four (4) times the forgone local wage assessment rate if the project is located in a local jurisdiction where:*
1. *a. A local occupational license fee greater than or equal to twenty percent (20%) of the individual income tax rate in KRS 141.020 is imposed; and*
b. The local jurisdiction agrees to forgo an amount of the local occupational license fee that is less than twenty percent (20%) of the individual income tax rate imposed by KRS 141.020 as the local wage assessment; or
 2. *a. A local occupational license fee less than twenty percent (20%) of the individual income tax rate in KRS 141.020 is imposed; and*
b. The local jurisdiction agrees to forgo only a portion of the total amount of the local occupational license fee as the local wage assessment~~unless:~~
- ~~(a) The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forgo all of their local occupational license fee, in which case the assessment shall equal four percent (4%) plus the percentage of the local occupational license fee;~~
- ~~(b) The local government or governments in which the project is located have a local occupational license fee of less than one percent (1%) and agree to forego a portion of their local occupational license fee, in which case the assessment shall equal the percentage that the local government or governments agree to forego plus a percentage that is four (4) times the percentage the local government or governments agree to forego;~~
- ~~(c) The local government or governments in which the project is located have a local occupational license fee equal to or greater than one percent (1%), and the local government or governments agree to forego an amount less than one percent (1%), in which case the assessment shall equal the percentage that the local government or governments agree to forego plus a percentage that is four (4) times the percentage the local government or governments agree to forego; or~~
- ~~(d) The local government or governments in which the project is located have no local occupational license fee, in which case the assessment shall equal four percent (4%).~~
- (2) Each assessed employee shall be entitled to a credit against the Kentucky income tax required to be withheld under KRS 141.310 in the form of a simultaneous adjustment equal to *the Commonwealth's assessment outlined in subsection (1) of this section* ~~four fifths (4/5) of the assessment, unless:~~
- ~~(a) The assessment is calculated under subsection (1)(a) of this section, in which case the credit shall be equal to the total assessment less the occupational license fee; or~~
- ~~(b) The assessment is calculated under subsection (1)(d) of this section, in which case the credit shall be equal to one hundred percent (100%) of the assessment.~~
- (3) Each employee assessed under subsection (1) of this section also shall be entitled to a credit against the local occupational license fee in the form of a simultaneous adjustment of the local occupational license fee withholding equal to *the local wage assessment outlined in subsection (1) of this section* ~~one fifth (1/5) of~~

~~the assessment, unless the wage assessment is calculated under subsection (1)(a) of this section, in which case the credit shall equal the same amount as the local occupational license fee].~~

- (4) If an approved company elects to impose the assessment as a condition of employment or the retention of employment, the approved company shall deduct the assessment from each paycheck of each employee subject to the provisions of subsections (2) and (3) of this section.
- (5) Any approved company collecting an assessment shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority the documentation respecting the assessment the authority may require.
- (6) Any assessment of the wages of the employees of an approved company shall permanently lapse upon expiration or termination of the agreement unless the agreement has been amended to extend the termination as a result of a supplemental project.
- (7) By October 1 of each year, the Department of Revenue shall certify to the authority, in the form of an annual report, aggregate tax credits claimed on tax returns filed during the taxable year ending June 30 of that year and wage assessment fees taken during the prior calendar year by approved companies with respect to their jobs retention projects under this subchapter, and shall certify to the authority, within one hundred eighty (180) days from the date an approved company has filed its state tax return, when an approved company has taken tax credits equal to its total inducements.

➔Section 21. KRS 154.31-010 is amended to read as follows:

As used in this subchapter:

- (1) "Agreement" means an agreement entered into pursuant to KRS 154.31-030 between the authority and an approved company;
- (2) "Alternative fuel production" has the same meaning as in KRS 154.32-010;
- (3) "Approved company" means an eligible company that has received approval from the authority for a sales and use tax incentive under this subchapter;
- (4) "Approved recovery amount" means the maximum sales and use tax incentive recoverable by an approved company as established in the agreement;
- (5) "Authority" means the Kentucky Economic Development Finance Authority;
- (6) "Carbon dioxide *or hydrogen* transmission pipeline" has the same meaning as in KRS 154.32-010;
- (7) "Coal severing and processing" means activities resulting in the eligible company being subject to the tax imposed by KRS Chapter 143;
- (8) "Department" means the Department of Revenue;
- (9) "Economic development project" means:
 - (a) 1. The acquisition or construction of a new facility; or
 2. The expansion or rehabilitation of an existing facility; or
 - (b) The installation and equipping of a facility;

by an eligible company at a specific site in the Commonwealth to be used in an activity conducted by the approved company;
- (10) "Electronic processing" means the use of technology having electronic, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, now in existence or later developed to perform a service or technology activity;
- (11) (a) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or other legal entity with a proposed economic development project that is primarily engaged in or planning to be engaged in one (1) or more of the following activities within the Commonwealth:
 1. Manufacturing;
 2. Nonretail service or technology activities;
 3. Agribusiness;

4. Headquarters operations;
 5. Alternative fuel, gasification, energy-efficient alternative fuel or renewable energy production;
 6. Carbon dioxide *or hydrogen* transmission pipelines;
 7. Coal severing and processing;
 8. Hospital operations; or
 9. In operating or developing a tourism attraction.
- (b) "Eligible company" does not include any company whose primary activity to be conducted within the Commonwealth is forestry, fishing, the provision of utilities, construction, wholesale trade, retail trade, real estate, rental and leasing, educational services, food services, or public administration services;
- (12) "Eligible expenses" means the amount expended for:
- (a) Building and construction materials permanently incorporated as an improvement to real property as part of an economic development project; or
 - (b) Equipment used for research and development or electronic processing at an economic development project;
- if the Kentucky sales and use tax imposed by KRS Chapter 139 is paid on the purchase of the materials or equipment at the time of purchase;
- (13) "Energy-efficient alternative fuel production" has the same meaning as in KRS 154.32-010;
- (14) (a) "Equipment" means tangible personal property which is subject to depreciation under Sections 167 and 168 of the Internal Revenue Code, including assets which are expensed under Section 179 of the Internal Revenue Code, and that is used in the operation of a business.
- (b) "Equipment" does not include any tangible personal property used to maintain, restore, mend, or repair machinery or equipment, consumable operating supplies, office supplies, or maintenance supplies;
- (15) "Gasification process" has the same meaning as in KRS 154.32-010;
- (16) "Headquarters" means the principal office where the principal executives of the entity are located and from which other personnel, branches, affiliates, offices, or entities are controlled;
- (17) "Hospital" has the same meaning as in KRS 154.32-010;
- (18) "Manufacturing" has the same meaning as in KRS 154.32-010;
- (19) "Nonretail service and technology" has the same meaning as in KRS 154.32-010;
- (20) "Project term" means the time for which an agreement shall be in effect. The project term shall be established in the agreement and shall not exceed seven (7) years;
- (21) "Renewable energy production" has the same meaning as in KRS 154.32-010;~~and~~
- (22) (a) "Research and development" means experimental or laboratory activity that has as its ultimate goal the development of new products, the improvement of existing products, the development of new uses for existing products, or the development or improvement of methods for producing products.
- (b) "Research and development" does not include testing or inspection of materials or products for quality control purposes, efficiency surveys, management studies, consumer surveys or other market research, advertising or promotional activities, or research in connection with literary, historical, or similar projects; *and*
- (23) ***"Tourism attraction" has the same meaning as tourism attraction project in KRS 148.851.***
- ➔Section 22. KRS 154.32-010 is amended to read as follows:
- (1) "Activation date" means the date established in the tax incentive agreement that is within two (2) years of final approval;
 - (2) "Affiliate" means the following:
 - (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

- (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
- (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;
- (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
 - 1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
 - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
 - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
 - 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
- (e) A grantor and a fiduciary of any trust;
- (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- (g) A fiduciary of a trust and a beneficiary of that trust;
- (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
- (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (k) A corporation, a partnership, or 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 or 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;

- (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; or
 - (p) Two (2) or more limited liability companies, if the same persons own more than fifty percent (50%) of the capital interest or are entitled to more than fifty percent (50%) of the capital profits in the limited liability companies;
- (3) "Agribusiness" means the processing of raw agricultural products, including but not limited to timber and industrial hemp, or the performance of value-added functions with regard to raw agricultural products;
 - (4) "Alternative fuel production" means a Kentucky operation that primarily produces alternative transportation fuels for sale. The alternative fuel production may produce electricity as a by-product if the primary function of the operations remains the production and sale of alternative transportation fuels;
 - (5) "Alternative transportation fuels" has the same meaning as in KRS 152.715;
 - (6) "Approved company" means an eligible company that has received final approval to receive incentives under this subchapter;
 - (7) "Approved costs" means the amount of eligible costs approved by the authority at final approval;
 - (8) "Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010;
 - (9) "Biomass resources" has the same meaning as in KRS 152.715;
 - (10) "Capital lease" means a lease classified as a capital lease by the Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976, as amended;
 - (11) "Carbon dioxide *or hydrogen* transmission pipeline" means the in-state portion of a pipeline, including appurtenant facilities, property rights, and easements, that is used exclusively for the purpose of transporting carbon dioxide *or hydrogen* to the point of sale, storage, or other carbon *or hydrogen* management applications;
 - (12) "Coal severing and processing" means activities resulting in the eligible company being subject to the tax imposed by KRS Chapter 143;
 - (13) "Commonwealth" means the Commonwealth of Kentucky;
 - (14) "Confirmed approved costs" means:
 - (a) For owned economic development projects, the documented eligible costs incurred on or before the activation date; or
 - (b) For leased economic development projects:
 - 1. The documented eligible costs incurred on or before the activation date; and
 - 2. Estimated rent to be incurred by the approved company throughout the term of the tax incentive agreement.

For both owned and leased economic development projects, "confirmed approved costs" may be less than approved costs, but shall not be more than approved costs;
 - (15) "Department" means the Department of Revenue;
 - (16) "Economic development project" means:
 - (a) The acquisition, leasing, or construction of a new facility;
 - (b) The acquisition, leasing, rehabilitation, or expansion of an existing facility; or
 - (c) The installation and equipping of a facility;

by an eligible company. "Economic development project" does not include any economic development project that will result in the replacement of facilities existing in the Commonwealth, except as provided in KRS 154.32-060;
 - (17) (a) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity with a proposed economic development project

that is engaged in or is planning to be engaged in one (1) or more of the following activities within the Commonwealth:

1. Manufacturing;
2. Agribusiness;
3. Nonretail service or technology;
4. Headquarters operations, regardless of the underlying business activity of the company;
5. Alternative fuel, gasification, energy-efficient alternative fuel, or renewable energy production;
6. Carbon dioxide *or hydrogen* transmission pipeline;
7. Coal severing and processing; or
8. Hospital operations.

- (b) "Eligible company" does not include companies where the primary activity to be conducted within the Commonwealth is forestry, fishing, the provision of utilities, construction, wholesale trade, retail trade, real estate, rental and leasing, educational services, accommodation and food services, or public administration services;

(18) "Eligible costs" means:

- (a) For owned economic development projects:

1. Start-up costs;
2. Nonrecurring obligations incurred for labor and nonrecurring payments to contractors, subcontractors, builders, and materialmen in connection with the economic development project;
3. The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;
4. The cost of contract bonds and of insurance of all kinds that may be required or necessary for completion of an economic development project which is not paid by a contractor or otherwise provided for;
5. All costs of architectural and engineering services, including test borings, surveys, estimated plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required for construction of the economic development project;
6. All costs which are required to be paid under the terms of any contract for the economic development project;
7. All costs incurred for construction activities, including 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; construction and installation of railroad spurs as needed to connect the economic development project to existing railways; or similar activities as the authority may determine necessary for construction of the economic development project; and
8. All other costs of a nature comparable to those described above; and

- (b) For leased economic development projects:

1. Start-up costs;
2. Building/leasehold improvements; and
3. Fifty percent (50%) of the estimated annual rent for each year of the tax incentive agreement.

Notwithstanding any other provision of this subsection, for economic development projects that are not in enhanced incentive counties, the cost of equipment eligible for recovery as an eligible cost shall not exceed twenty thousand dollars (\$20,000) for each new full-time job created as of the activation date;

- (19) "Employee benefits" means payments 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;
- (20) "Energy-efficient alternative fuel production" means a Kentucky operation that produces for sale energy-efficient alternative fuels;
- (21) "Energy-efficient alternative fuels" means homogeneous fuels that:
- (a) Are produced from processes designed to densify feedstock coal, waste coal, or biomass resources; and
 - (b) Have an energy content that is greater than the feedstock coal, waste coal, or biomass resource;
- (22) "Enhanced incentive counties" means counties certified by the authority pursuant to KRS 154.32-050;
- (23) "Final approval" means the action taken by the authority authorizing the eligible company to receive incentives under this subchapter;
- (24) (a) "Full-time job" means a job held by a person who:
- 1. Is required to work a minimum of thirty-five (35) hours per week; and
 - 2. a. Is subject to the Kentucky individual income tax imposed by KRS 141.020; or
 - b. Works remotely away from the economic development project if the job meets all of the following conditions:
 - i. Is held by a Kentucky resident;
 - ii. Was created as a result of the economic development project; and
 - iii. The payroll of this job is expensed to the economic development project.
- (b) "Full-time job" does not include a job held by a resident of any state with a reciprocal agreement between the Commonwealth and the other state as described in KRS 141.070;
- (25) "Gasification process" means a process that converts any carbon-containing material into a synthesis gas composed primarily of carbon monoxide and hydrogen;
- (26) "Gasification production" means a Kentucky operation that primarily produces for sale:
- (a) Alternative transportation fuels;
 - (b) Synthetic natural gas;
 - (c) Chemicals;
 - (d) Chemical feedstocks; or
 - (e) Liquid fuels;
- from coal, waste coal, coal-processing waste, or biomass resources, through a gasification process. The gasification production may produce electricity as a by-product if the primary function of the operations remains the production and sale of alternative transportation fuels, synthetic natural gas, chemicals, chemical feedstocks, or liquid fuels;
- (27) "Headquarters" means the principal office where the principal executives of the entity are located and from which other personnel, branches, affiliates, offices, or entities are controlled;
- (28) "Hospital" means a facility licensed by the Cabinet for Health and Family Services under KRS Chapter 216B for the operation of a hospital and the basic services provided by a hospital;
- (29) "Incentives" means the incentives available under this subchapter, as listed in KRS 154.32-020(3);
- (30) "Job target" means the annual average number of new full-time jobs that the approved company commits to create and maintain at the economic development project, which shall not be less than ten (10) new full-time jobs;
- (31) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;
- (32) "Kentucky gross profits" has the same meaning as in KRS 141.0401;

- (33) "Lease agreement" means an agreement between an approved company and an unrelated entity conveying the right to use a facility, the terms of which reflect an arms' length transaction. "Lease agreement" does not include a capital lease;
- (34) "Leased project" means an economic development project site occupied by an approved company pursuant to a lease agreement;
- (35) "Manufacturing" means any activity involving:
- (a) 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 the processing, assembling, or production of property, together with the storage, warehousing, distribution, and related office facilities; or
 - (b) Production of vital medications, personal protective equipment, or equipment necessary to produce personal protective equipment;
- (36) (a) "Nonretail service or technology" means any activity where service or technology is provided predominantly outside the Commonwealth and designed to serve a multistate, national, or international market.
- (b) "Nonretail service or technology" includes but is not limited to call centers, centralized administrative or processing centers, telephone or Internet sales order or processing centers, distribution or fulfillment centers, data processing centers, research and development facilities, and other similar activities;
- (37) "Owned project" means an economic development project owned in fee simple by the approved company or an affiliate, or possessed by the approved company or an affiliate pursuant to a capital lease;
- (38) "Personal protective equipment" means protective clothing, helmets, gloves, face shields, goggles, face masks, respirators, and other equipment designed to protect the user from injury or the spread of infection or illness;
- (39) "Preliminary approval" means the action taken by the authority preliminarily approving an eligible company for incentives under this subchapter;
- (40) "Renewable energy production" means a Kentucky operation that utilizes wind power, biomass resources, landfill methane gas, hydropower, solar power, or other similar renewable resources to generate electricity for sale to unrelated entities;
- (41) "Rent" means the actual annual rent or fee paid by an approved company under a lease agreement;
- (42) "Start-up costs" means nonrecurring costs incurred to furnish and equip a facility for an economic development project, including costs incurred for:
- (a) Computers, furnishings, office equipment, manufacturing equipment, and fixtures;
 - (b) The relocation of out-of-state equipment; and
 - (c) Cost of fixed telecommunications equipment;
- as certified to the authority in accordance with KRS 154.32-030;
- (43) "Synthetic natural gas" means the same thing as in KRS 152.715;
- (44) "Tax incentive agreement" means the agreement entered into pursuant to KRS 154.32-040 between the authority and an approved company;
- (45) "Term" means the period of time for which a tax incentive agreement may be in effect, which shall not exceed fifteen (15) years for an economic development project located in an enhanced incentive county, or ten (10) years for an economic development project not located in any other county;
- (46) "Vital medications" means any drug or biologic used to prevent or treat a serious life-threatening disease or medical condition for which there is no other available source with sufficient supply of that drug or biologic or alternative drug or biologic;
- (47) "Wage" means the per hour earnings of a full-time employee, including wages, tips, overtime, bonuses, and commissions, as reflected on the employee's federal form W-2 wage and tax statement, but excludes employee benefits; and
- (48) "Wage target" means the average total hourly compensation amount, including the minimum wage and employee benefits, that the approved company commits to meet for all new full-time jobs created and maintained as a result of the economic development project, which shall not be less than:

- (a) One hundred twenty-five percent (125%) of the federal minimum wage in enhanced incentive counties; or
- (b) One hundred fifty percent (150%) of the federal minimum wage in all other counties.

➔Section 23. KRS 154.32-020 is amended to read as follows:

- (1) The purposes of this subchapter are:
 - (a) To provide incentives for eligible companies and to encourage the location or expansion of manufacturing facilities, agribusiness operations, nonretail service or technology facilities, headquarters operations, alternative fuel production facilities, gasification production facilities, energy-efficient alternative fuel production facilities, renewable energy production facilities, carbon dioxide *or hydrogen* transmission pipelines, coal severing and processing, and hospital operations in the Commonwealth to advance the public purposes of:
 - 1. Creation of new jobs that, but for the incentives offered by the authority, would not exist within the Commonwealth;
 - 2. Creation of new sources of tax revenues for the support of public services provided by the Commonwealth;
 - 3. Improvement in the quality of life for Kentucky citizens through the creation of sustainable jobs with higher salaries; and
 - 4. Providing an economic stimulus to bolster in-state production of vital medications and personal protective equipment; and
 - (b) To provide enhanced incentives for companies that locate in enhanced incentive counties in recognition of the depressed economic conditions in those counties and the increased need for the growth and development caused by the depressed economic conditions.
- (2) To qualify for the incentives provided by subsection (3) of this section, an approved company shall:
 - (a) Incur eligible costs of at least one hundred thousand dollars (\$100,000);
 - (b) Create at least ten (10) new full-time jobs and maintain an annual average number of at least ten (10) new full-time jobs; and
 - (c)
 - 1. Pay at least ninety percent (90%) of all new full-time employees whose jobs were created as a result of the economic development project a minimum wage of at least one hundred twenty-five percent (125%) of the federal minimum wage in enhanced incentive counties, and one hundred fifty percent (150%) of the federal minimum wage in other counties throughout the term of the economic development project; and
 - 2. Provide employee benefits for all new full-time jobs equal to at least fifteen percent (15%) of the minimum wage requirement established by subparagraph 1. of this paragraph. If the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the minimum wage requirement established by subparagraph 1. of this paragraph, the eligible company may still qualify for incentives if it provides the full-time employees hired as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the minimum wage requirement established in subparagraph 1. of this paragraph through increased hourly wages combined with employee benefits; or
 - (d) Produce vital medications, personal protective equipment, or equipment necessary to produce personal protective equipment.
- (3) The incentives available under this subchapter are as follows:
 - (a) Tax credits of up to one hundred percent (100%) of the Kentucky income tax imposed under KRS 141.020 or 141.040 and the limited liability entity tax imposed under KRS 141.0401 on the income, Kentucky gross profits, or Kentucky gross receipts of the approved company generated by or arising from the economic development project, as set forth in KRS 141.415 and 154.32-070;
 - (b) Authorization for the approved company to impose a wage assessment against the gross wages of each new employee subject to the Kentucky income tax as provided in KRS 154.32-090; and

- (c) Notwithstanding any provision of law to the contrary, for any economic development project with an eligible investment of more than two hundred million dollars (\$200,000,000), the authority may authorize approval to the economic development project based upon terms and incentives applicable to economic development project locating in an enhanced incentive county.
- (4) The General Assembly hereby finds and declares that the authority granted in this subchapter and the purposes accomplished hereby are proper governmental and public purposes for which public moneys may be expended, and that the inducement of the location of economic development projects within the Commonwealth is of paramount importance to the economic well-being of the Commonwealth.

➔Section 24. 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 in the Education and Labor 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.
- (6) *A county not certified under subsection (2) or (3) of this section may be certified by the authority as an enhanced incentive county if the county has been declared a disaster relief area by any state or federal agency on or after December 1, 2021. The enhanced county certification shall be effective for a period of two (2) years from the date of certification by the authority. Following the two (2) year period, if a county certified under this subsection does not meet the criteria under subsections (2) and (3) of this section to be certified as an enhanced incentive county, the county shall be decertified in accordance with subsection (4) of this section.*

➔Section 25. KRS 154.32-090 is amended to read as follows:

- (1) An approved company or, with the authority's consent, an affiliate of an approved company may impose wage assessments against employees as provided in this section if a wage assessment is included in the incentives awarded to the approved company in the tax incentive agreement. The level of wage assessment shall be negotiated as part of the tax incentive agreement.
- (2) If an economic development project is located in an enhanced incentive county, the approved company or, with the authority's consent, an affiliate of the approved company may require that each employee subject to the tax imposed by KRS 141.020, whose job is determined by the authority to be created as a result of the economic development project, as a condition of employment, agree to an assessment of up to **one hundred percent (100%) of the individual income tax rate imposed by KRS 141.020, and that assessment shall operate as the Commonwealth's wage assessment. Although not required for an economic development project located in an enhanced incentive county, a local jurisdiction may agree to forgo all or a portion of its local occupational license fee as a local wage assessment**~~[five percent (5%) of taxable wages]~~.
- (3) (a) If the economic development project is not located in an enhanced incentive county, and is located in a local jurisdiction where:
1. No local occupational license fee is imposed;~~[or]~~
 2. a. A local occupational license fee greater than or equal to **twenty percent (20%) of the individual income tax rate in KRS 141.020**~~[one percent (1%)]~~ is imposed; and
 - b. The local jurisdiction agrees to forgo, **as the local wage assessment, at least twenty percent (20%) of the individual income tax rate imposed by KRS 141.020**~~[one percent (1%)]~~ via credits against the local occupational license fee for the affected employees; **or**
 3. a. **A local occupational license fee less than twenty percent (20%) of the individual income tax rate in KRS 141.020 is imposed; and**
 - b. **The local jurisdiction agrees to forgo the total amount of the local occupational license fee as the local wage assessment;** then
- (b) An approved company or, with the authority's consent, an affiliate of an approved company may require that each employee subject to tax imposed by KRS 141.020, whose job is determined by the authority to be created as a result of the economic development project, as a condition of employment, agree to pay an assessment of up to **sixty percent (60%) of the individual income tax rate imposed by KRS 141.020 and that assessment shall operate as the Commonwealth's wage assessment**~~[four percent (4%) of taxable wages]~~.
- (4) (a) **If the economic development project is not located in an enhanced incentive county, and is located in a local jurisdiction where:**
1. a. **A local occupational license fee greater than or equal to twenty percent (20%) of the individual income tax rate in KRS 141.020 is imposed; and**
 - b. **The local jurisdiction agrees to forgo an amount of the local occupational license fee that is less than twenty percent (20%) of the individual income tax rate in KRS 141.020 as the local wage assessment; or**
 2. a. **A local occupational license fee of lesser than twenty percent (20%) of the individual income tax rate in KRS 141.020 is imposed; and**

b. The local jurisdiction agrees to forgo only a portion of the total amount of the local occupational license fee as the local wage assessment~~if:~~

~~1. The economic development project is not located in an enhanced incentive county, and is located in a jurisdiction where the local occupational license fee is less than one percent (1%); and~~

~~2. The local jurisdiction agrees to forgo the total amount of the local occupational license fee]; then~~

(b) An approved company or, with the authority's consent, an affiliate of an approved company may require that each employee subject to tax imposed by KRS 141.020, whose job is determined by the authority to be created as a result of the economic development project, as a condition of employment, agree to pay an assessment **equal to three (3) times the forgone local wage assessment rate and that assessment shall operate as the Commonwealth's wage assessment**~~[of up to three percent (3%) of taxable wages, plus a percentage equal to the amount of the local occupational license fee the local jurisdiction agrees to forgo].~~

(5) ~~[(a) If:~~

~~1. The project is not located in an enhanced incentive county and is located in a county where the jurisdiction imposes a local occupational license fee of less than one percent (1%); and~~

~~2. The local jurisdiction agrees to forgo only a portion of the total amount of the local occupational license fee; then~~

~~(b) An approved company or, with the authority's consent, an affiliate of an approved company may require that each employee subject to tax imposed by KRS 141.020, whose job is determined by the authority to be created as a result of the economic development project, as a condition of employment, agree to pay an assessment to be determined as follows:~~

~~1. Divide the local occupational license fee that the local jurisdiction has agreed to forgo by the total local occupational license fee imposed;~~

~~2. Multiply the result determined under subparagraph 1. of this paragraph by three percent (3%); and~~

~~3. Add the result from subparagraph 2. of this paragraph to the local occupational license fee that the local jurisdiction has agreed to forgo.~~

~~(6) (a) If:~~

~~1. The project is not located in an enhanced incentive county, and is located in a county where the jurisdiction imposes a local occupational license fee equal to or greater than one percent (1%); and~~

~~2. The local jurisdiction agrees to forgo the local occupational license fee in an amount of less than one percent (1%); then~~

~~(b) An approved company or, with the authority's consent, an affiliate of an approved company may require that each employee subject to tax imposed by KRS 141.020, whose job is determined by the authority to be created as a result of the economic development project, as a condition of employment, agree to pay an assessment to be determined as follows:~~

~~1. Divide the local occupational license fee that the local jurisdiction has agreed to forgo by one percent (1%);~~

~~2. Multiply the result determined under subparagraph 1. of this paragraph by three percent (3%); and~~

~~3. Add the result from subparagraph 2. of this paragraph to the local occupational license fee that the local jurisdiction has agreed to forgo.~~

~~(7)]If the project is not located in an enhanced incentive county, and:~~

(a) Is located in a local jurisdiction that does not impose a local occupational license fee, the local jurisdiction shall be required to provide some alternative inducement satisfactory to the authority at the local level in order for a preliminarily approved company to receive final approval. However, the authority may waive this requirement if there are reasonable circumstances that prevent the local jurisdiction from providing a reasonable inducement; or

(b) Is located in a local jurisdiction that does impose a local occupational license fee, the jurisdiction may request that the authority waive the local occupational license fee requirements established by subsection (3) ~~or~~^[5] (4) ~~[5], or (6)]~~ of this section if the local jurisdiction offers alternative inducements of similar value satisfactory to the authority. The authority shall review all requests for a

waiver, and may waive the local occupational license fee requirements and instead require the local jurisdiction to provide alternative inducements of similar value if the authority determines that the circumstances warrant an alternative contribution by the local jurisdiction.

- ~~(6)~~~~(8)~~ Each employee paying the assessment shall simultaneously be entitled to a credit against the Kentucky individual income tax required to be withheld under KRS 141.310 equal to the state portion of the assessment and shall be entitled to a credit against the local occupational license tax equal to the local portion of the assessment.
- ~~(7)~~~~(9)~~ If more than one (1) local jurisdiction imposes an occupational license fee, the local jurisdiction portion of the assessment shall be prorated proportionately among the taxes imposed by the local jurisdictions unless one (1) local jurisdiction agrees to forgo the receipt of these taxes in an amount equal to the local jurisdiction portion of the wage assessment, in which case no proration shall be made.
- ~~(8)~~~~(10)~~ If a full-time employee subject to state tax imposed by KRS 141.020 is already employed by the approved company at a site other than the site of the economic development project, that full-time employee's job shall be deemed to have been created when the full-time employee is transferred to the site of the economic development project if the full-time employee's existing job is filled with a new full-time employee.
- ~~(9)~~~~(11)~~ If an approved company elects to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each payment of wages to the employee.
- ~~(10)~~~~(12)~~ Notwithstanding any other provision of the Kentucky Revised Statutes, if an approved company elects not to deduct the assessment from each payment of wages to the employee, but rather requests a reimbursement of state tax imposed by KRS 141.020 or local occupational tax in the aggregate after they have been paid to the state or local jurisdiction, no interest shall be paid by the state or by the local jurisdiction on that reimbursement.
- ~~(11)~~~~(13)~~ No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction.
- ~~(12)~~~~(14)~~ An approved company imposing an assessment shall make its payroll, books, and records available to the authority or the department upon request, and shall file with the authority or department documentation pertaining to the assessment as the authority or department may require.
- ~~(13)~~~~(15)~~ Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project shall permanently cease at the expiration of the tax incentive agreement.

➔Section 26. KRS 154.34-010 is amended to read as follows:

As used in this subchapter:

- (1) "Affiliate" has the same meaning as in KRS 154.32-010;
- (2) "Agribusiness" has the same meaning as in KRS 154.32-010;
- (3) "Alternative fuel production" has the same meaning as in KRS 154.32-010;
- (4) "Approved company" means an eligible company approved under KRS 154.34-070 for a reinvestment project;
- (5) "Approved costs" means the eligible equipment and related costs approved by the authority that may be recovered by an approved company through the incentives authorized by this subchapter;
- (6) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;
- (7) "Capital lease" has the same meaning as in KRS 154.32-010;
- (8) "Carbon dioxide *or hydrogen* transmission pipeline" has the same meaning as in KRS 154.32-010;
- (9) "Coal severing and processing" means activities resulting in an eligible company being subject to the tax imposed by KRS Chapter 143;
- (10) "Commonwealth" means the Commonwealth of Kentucky;
- (11) "Department" means the Department of Revenue;
- (12) (a) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity;

1. Employing or intending to employ a minimum of twenty-five (25) persons on a full-time bases; and
2. Engaged in or planning to engage in one (1) or more of the following activities:
 - a. Headquarter operations;
 - b. Manufacturing;
 - c. Agribusiness;
 - d. Nonretail service or technology;
 - e. Coal severing and processing;
 - f. Alternative fuel, gasification, energy-efficient alternative fuel, or renewable energy production;
 - g. Carbon dioxide *or hydrogen* transmission pipeline operations; or
 - h. Hospital operations;

at the same facility located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval of a reinvestment project by the authority, including facilities where operations have been temporarily suspended and which meet the standards under KRS 154.34-070 and related administrative regulations promulgated by the authority.

- (b) "Eligible company" does not include any company for which the primary activity to be conducted within the Commonwealth is:

1. Forestry;
2. Fishing;
3. The provision of utilities;
4. Construction;
5. Wholesale trade;
6. Retail trade;
7. Real estate;
8. Rental and leasing;
9. Educational services;
10. Accommodation and food services; or
11. Public administration services;

- (13) (a) "Eligible equipment and related costs" means:

1. Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project;
2. The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;
3. All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project;
4. All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of a reinvestment project;

5. All costs required for the installation of utilities, including but not limited to water, sewer, sewer treatment, gas, electricity, communications, and access to transportation, and including off-site construction of the facilities paid for by the approved company; and
 6. All other costs of a nature comparable to those described in this paragraph.
- (b) "Eligible equipment and related costs" does not include costs related to the replacement or repair of existing machinery or equipment resulting from normal wear and usage of the machinery or equipment;
- (14) "Energy-efficient alternative fuel production" has the same meaning as in KRS 154.32-010;
- (15) "Enhanced incentive counties" has the same meaning as in KRS 154.32-010;
- (16) "Equipment" means manufacturing machinery equipment, computers, furnishings, fixtures, and other assets installed by the approved company as part of the reinvestment project;
- (17) "Final approval" means the action taken by the authority designating a preliminarily approved eligible company as an approved company to receive incentives under this subchapter;
- (18) "Full-time employee" means a person who:
- (a) Is required to work a minimum of thirty-five (35) hours per week; or
 - (b) Works remotely away from the reinvestment project if all the following conditions are met:
 1. Is a Kentucky resident;
 2. Whose job was created or retained as a result of the reinvestment project; and
 3. Whose payroll is expensed to the reinvestment project;
- (19) "Gasification production" has the same meaning as in KRS 154.32-010;
- (20) "Headquarters" has the same meaning as in KRS 154.32-010;
- (21) "Hospital" has the same meaning as in KRS 154.32-010;
- (22) "Incentives" means the Kentucky tax credit as prescribed in this subchapter;
- (23) "Kentucky gross profits" has the same meaning as in KRS 141.0401;
- (24) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;
- (25) "Leased project" has the same meaning as in KRS 154.32-010;
- (26) "Manufacturing" has the same meaning as in KRS 154.32-010;
- (27) "Nonretail service or technology" has the same meaning as in KRS 154.32-010;
- (28) "Personal protective equipment" has the same meaning as in KRS 154.32-010;
- (29) "Preliminary approval" means the action taken by the authority designating an eligible company as a preliminarily approved company;
- (30) "Reinvestment agreement" means the agreement entered into pursuant to KRS 154.34-080 between the authority and an approved company with respect to a reinvestment project;
- (31) "Reinvestment project" means:
- (a) A reinvestment in the facility of an eligible company and in the full-time employees of an eligible company through the acquisition, construction, and installation of new equipment and, with respect thereto, the construction, rehabilitation, and installation of improvements to facilities necessary to house the new equipment, including surveys; installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; or off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located;
 - (b) The expenditure of at least one million dollars (\$1,000,000) in eligible equipment and related costs for leased projects and at least two million five hundred thousand dollars (\$2,500,000) in eligible equipment and related costs for all other reinvestment projects; and
 - (c) A reinvestment in a facility in order to allow for the production of vital medications, personal protective equipment, or equipment necessary to produce personal protective equipment;

(32) "Renewable energy production" has the same meaning as in KRS 154.32-010; and

(33) "Vital medications" has the same meaning as in KRS 154.32-010.

➔Section 27. KRS 154.47-005 is amended to read as follows:

As used in this subchapter, unless the context clearly indicates otherwise:

(1) ~~["Approved network" means a flexible manufacturing network approved by the cabinet in accordance with KRS 154.47-040;~~

~~(2) "Cabinet" means the Cabinet for Economic Development;~~

~~(3) "Center" means the Quicksand Wood Utilization Center located in Breathitt County, Kentucky;~~

~~(4)~~ "Certified tree farmer" means a person whose tree farm is certified by the Kentucky Tree Farm Committee and approved by the American Forest Foundation;

~~(3)~~~~(5)~~ "Flexible manufacturing network" or "network" means an affiliation of secondary wood products businesses as provided by KRS 154.47-040;

~~(6)~~ "Forest steward" means a person whose forest property is certified as a stewardship forest and approved by the Division of Forestry of the Department for Natural Resources;

~~(4)~~~~(7)~~ "Procurement area" means an area specified by the applicant in a radius of miles from the applicant's site of operations from which the applicant acquires raw wood products;

~~(5)~~~~(8)~~ "Secondary wood products industry" means businesses that compose that segment of the forest products industry that manufacture, assemble, process, or produce wood into a finished or semifinished product; however, the "secondary wood products industry" does not include primary wood products operations such as logging, sawmilling, chip milling, veneer milling, or pulp milling. Businesses that include both primary and secondary wood products operations are deemed to be within the secondary wood products industry only in regard to their secondary wood products operations; and

~~(6)~~~~(9)~~ "Wood industry hub" or "hub" means a system in which the technical and workforce training needs of the secondary wood products industry are integrated.

➔Section 28. KRS 154.60-010 is amended to read as follows:

As used in this subchapter:

(1) "Authority" means the Kentucky Economic Development Finance Authority;

(2) (a) "Average hourly wage" means the per-hour wage earned by a full-time employee, including wages, tips, overtime, bonuses, and commissions, as reflected on the employee's federal form W-2 wage and tax statement.

(b) "Average hourly wage" does not include employee benefits as defined in KRS 154.32-010, including health insurance and reimbursements;

(3) "Base employment" means:

(a) For the first application for which credits are approved, the number of full-time employees employed on the day prior to the work start date of the new employee filling the earliest eligible position identified on the application;

(b) For subsequent applications, the number of full-time employees employed on the day prior to the work start date of the new employee filling the earliest eligible position identified on the initial approved application plus each eligible position for which a credit has been approved; and

(c) For applications from businesses involved in mergers, acquisitions, or federal tax identification number changes, base employment may be adjusted by the Cabinet for Economic Development;

(4) "Eligible position" means each position that:

(a) Is filled by a full-time employee and that increases the total employment of the small business above its base employment; and

(b) Carries an average hourly wage of no less than one hundred fifty percent (150%) of the federal minimum wage;

- (5) "Full-time employee" means a person employed by a small business for at least an average of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;
- (6) "Qualifying equipment or technology" means equipment or technology that has been approved by the Office of Entrepreneurship and ~~Small Business~~ Innovation; and
- (7) "Small business" means any business entity organized for profit that has been approved by the Office of Entrepreneurship and ~~Small Business~~ Innovation, including a sole proprietorship, partnership, limited partnership, corporation, limited liability company, joint venture, association, or cooperative, that has fifty (50) or fewer employees working more than thirty-five (35) hours per week, whether within or outside the Commonwealth, at the time it applies.

➔Section 29. KRS 154.60-020 is amended to read as follows:

- (1) The authority shall develop a Small Business Development Credit Program in consultation with the Office of Entrepreneurship and ~~Small Business~~ Innovation to assist new or existing small businesses operating in the Commonwealth. The nonrefundable credit shall be allowed against the taxes imposed by KRS 141.020 or 141.040, and 141.0401. The ordering of credits shall be as provided in KRS 141.0205.
- (2) The authority shall determine the terms, conditions, and requirements for application for the credit, in consultation with the Office of Entrepreneurship and ~~Small Business~~ Innovation, subject to the provisions of subsection (3) of this section. The application shall contain identification information about the number of eligible positions created and filled, a calculation of the base employment of the small business, verification of investment of five thousand dollars (\$5,000) or more in qualifying equipment or technology, and other information the authority may specify to determine eligibility for the credit.
- (3)
 - (a) The maximum amount of credits that may be committed in each fiscal year by the authority and shared between the small business tax credit program and the Selling Farmer Tax Credit Program shall be capped at three million dollars (\$3,000,000).
 - (b) In order to be eligible to receive final approval for a credit, a small business shall, within the twenty-four (24) month period immediately preceding the application submission date:
 - 1. Create and fill one (1) or more eligible positions over the base employment; and
 - 2. Invest five thousand dollars (\$5,000) or more in qualifying equipment or technology.
 - (c) Each eligible position that is created and filled shall be maintained for twelve (12) months. If a full-time employee filling a newly created eligible position ceases to be employed by the small business for any reason, that employee shall be replaced within forty-five (45) days in order for the eligible position to maintain its eligible status, in addition to meeting all other applicable requirements.
 - (d) The small business shall submit all information necessary for the authority to determine credit eligibility for each year, and the amount of credit for which the small business is eligible.
 - (e) The maximum amount of credit for each small business for each year shall not exceed twenty-five thousand dollars (\$25,000).
 - (f) The credit shall be claimed on the tax return for the year during which the credit was approved. Unused credits may be carried forward for up to five (5) years.

➔Section 30. KRS 154.61-010 is amended to read as follows:

As used in this subchapter:

- (1) "Above-the-line production crew" means employees involved with the production of a motion picture or entertainment production whose salaries are negotiated prior to commencement of production, such as actors, directors, producers, and writers;
- (2) "Animated production" means a nationally distributed feature-length film created with the rapid display of a sequence of images using 2-D or 3-D graphics of artwork or model positions in order to create an illusion of movement;
- (3) "Approved company" means an eligible company approved for incentives provided under KRS 141.383 and 154.61-020;
- (4) "Authority" means the Kentucky Economic Development Finance Authority created in KRS 154.20-010;

- (5) "Below-the-line production crew" means employees involved with the production of a motion picture or entertainment production except above-the-line production crew. "Below-the-line production crew" includes but is not limited to:
- (a) Casting assistants;
 - (b) Costume design;
 - (c) Extras;
 - (d) Gaffers;
 - (e) Grips;
 - (f) Location managers;
 - (g) Production assistants;
 - (h) Set construction staff; and
 - (i) Set design staff;
- (6) **"Cabinet" means the Cabinet for Economic Development;**
- (7) "Commonwealth" means the Commonwealth of Kentucky;
- ~~(8)(7)~~ "Compensation" means compensation included in adjusted gross income as defined in KRS 141.010;
- (9) **"Continuous film production" means a motion picture or entertainment production that:**
- (a) **1. Has a projected budget of a minimum of ten million dollars (\$10,000,000) per calendar year for qualifying expenditures and qualifying payroll expenditures allocated to all qualifying motion picture or entertainment productions to be filmed or produced in Kentucky, with a minimum of one million five hundred thousand dollars (\$1,500,000) per production in Kentucky; and**
 - 2. Has a minimum of fifty percent (50%) of the funds available and the ability to raise the remaining funds necessary to complete the filming and production, which may be verified by:**
 - a. Bank statements or other financial documents; or**
 - b. A fundraising plan at the request of the authority;**
 - (b) **Demonstrates a distribution contract for each motion or entertainment production;**
 - (c) **Films and produces a minimum of twelve (12) or more days per production within the Commonwealth; and**
 - (d) **Maintains:**
 - 1. An apprenticeship program or on-the-job training program as defined in KRS 343.010; or**
 - 2. Partners with a film studies program with an accredited institution of postsecondary education located in the Commonwealth;**
- ~~(10)(8)~~ "Documentary" means a production based upon factual information and not subjective interjections;
- ~~(11)(9)~~ "Eligible company" means any person that intends to film or produce a motion picture or entertainment production in the Commonwealth;
- ~~(12)(10)~~ "Employee" has the same meaning as in KRS 141.010, **and, for purposes of this subchapter, also may include the employees or independent contractors of an approved company or the employees of a loan-out entity engaged by an approved company if they meet the requirements of KRS 141.310;**
- ~~(13)(11)~~ "Enhanced incentive county" has the same meaning as in KRS 154.32-010;
- ~~(14)(12)~~ "Feature-length film" means a live-action or animated production that is:
- (a) More than thirty (30) minutes in length; and
 - (b) Produced for distribution in theaters or via digital format, including but not limited to DVD, Internet, or mobile electronic devices;

- (15)~~(13)~~ "Industrial film" means a business-to-business film that may be viewed by the public, including but not limited to videos used for training or for viewing at a trade show;
- (16)~~(14)~~ "Kentucky-based company" has the same meaning as in KRS 164.6011;
- (17) ***"Loan-out entity" means a corporation, partnership, limited liability company, or other entity through which an artist or other person is loaned out to perform services for the approved company. A loan-out entity shall be registered and in good standing with the Kentucky Secretary of State. Notwithstanding the business organization, the loan-out entity and all employees of and other persons performing services for the loan-out entity shall be subject to all applicable provisions of the Kentucky personal income tax and any applicable payroll or other tax provisions;***
- (18)~~(15)~~ (a) "Motion picture or entertainment production" means:
1. The following if filmed in whole or in part, or produced in whole or in part, in the Commonwealth:
 - a. A feature-length film;
 - b. A television program;
 - c. An industrial film; or
 - d. A documentary; or
 2. A national touring production of a Broadway show produced in Kentucky.
- (b) "Motion picture or entertainment production" does not include the filming or production of obscene material or television coverage of news or athletic events;
- (19)~~(16)~~ "Obscene" has the same meaning as in KRS 531.010;
- (20)~~(17)~~ "Person" has the same meaning as in KRS 141.010;
- (21)~~(18)~~ (a) "Qualifying expenditure" means expenditures made in the Commonwealth for the following if directly used in or for a motion picture or entertainment production:
1. The production script and synopsis;
 2. Set construction and operations, wardrobe, accessories, and related services;
 3. Lease or rental of real property in Kentucky as a set location;
 4. Photography, sound synchronization, lighting, and related services;
 5. Editing and related services;
 6. Rental of facilities and equipment;
 7. Vehicle leases;
 8. Food; and
 9. Accommodations.
- (b) "Qualifying expenditure" does not include Kentucky sales and use tax paid by the approved company on the qualifying expenditure;
- (22)~~(19)~~ "Qualifying payroll expenditure" means compensation paid to above-the-line crew and below-the line crew while working on a motion picture or entertainment production in the Commonwealth if the compensation is for services performed in the Commonwealth;
- (23)~~(20)~~ "Resident" has the same meaning as in KRS 141.010;
- (24)~~(21)~~ "Secretary" means the secretary of the Cabinet for Economic Development;
- (25)~~(22)~~ "Tax incentive agreement" means the agreement entered into pursuant to KRS 154.61-030 between the authority and the approved company; and
- (26)~~(23)~~ "Television program" means any live-action or animated production or documentary, including but not limited to:
- (a) An episodic series;

- (b) A miniseries;
- (c) A television movie; or
- (d) A television pilot;

that is produced for distribution on television via broadcast, cable, or any digital format, including but not limited to cable, satellite, Internet, or mobile electronic devices.

➔Section 31. KRS 154.61-020 is amended to read as follows:

- (1) The purposes of KRS 141.383 and this subchapter are to encourage:
 - (a) The film and entertainment industry to choose locations in the Commonwealth for the filming and production of motion picture or entertainment productions;
 - (b) The development of a film and entertainment industry in Kentucky;
 - (c) Increased employment opportunities for the citizens of the Commonwealth within the film and entertainment industry; and
 - (d) The development of a production and postproduction infrastructure in the Commonwealth for film production and touring Broadway show production facilities containing state-of-the-art technologies.
- (2) The authority, together with the Department of Revenue, shall administer the tax credit established by KRS 141.383, this section, and KRS 154.61-030.
- (3) To qualify for the tax incentive provided in subsection (5) of this section, the following requirements shall be met:
 - (a) For an approved company that is also a Kentucky-based company that:
 - 1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred twenty-five thousand dollars (\$125,000);
 - 2. Produces a national touring production of a Broadway show in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000); or
 - 3. Films or produces a documentary in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ten thousand dollars (\$10,000); and
 - (b) For an approved company that is not a Kentucky-based company that:
 - 1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be two hundred fifty thousand dollars (\$250,000); or
 - 2. Films or produces a documentary in whole or in part in the Commonwealth or that produces a national touring production of a Broadway show, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars (\$20,000).
- (4) (a) Beginning on January 1, 2022, the total tax incentive approved under KRS 141.383 and this subchapter shall be limited to seventy-five million dollars (\$75,000,000) for calendar year 2022 and each calendar year thereafter; *and*
 - (b) *Beginning with calendar year 2024:*
 - 1. *Twenty-five million dollars (\$25,000,000) shall be allocated for all approved companies with a continuous film production; and*
 - 2. *On the first day of July of each calendar year, any unused balance of the amount allocated under subparagraph 1. of this paragraph for continuous film productions, shall be made available for all approved companies with motion picture or entertainment productions.*
- (5) (a) To qualify for the tax incentive available under KRS 141.383 and this subchapter all applicants shall:
 - 1. Begin filming or production *in Kentucky* within six (6) months of *approval by* ~~filing an application with~~ the authority; and

2. Complete filming or production *in Kentucky* within two (2) years of the filming or production start date.
- (b) The tax credit shall be against the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, and shall be refundable as provided in KRS 141.383.
- (c)
 1. For a motion picture or entertainment production *or continuous film production* filmed or produced in its entirety in an enhanced incentive county, the amount of the incentive shall be equal to thirty-five percent (35%) of the approved company's:
 - a. Qualifying expenditures;
 - b. Qualifying payroll expenditures paid to resident and nonresident below-the-line production crew; and
 - c. Qualifying payroll expenditures paid to resident and nonresident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.
 2.
 - a. To the extent the approved company films or produces a motion picture or entertainment production *or continuous film production* in part in an enhanced incentive county and in part a Kentucky county that is not an enhanced incentive county, the approved company shall be eligible to receive the incentives provided in this paragraph for those expenditures incurred in the enhanced incentive county and all other expenditures shall be subject to the incentives provided in paragraph (d) of this subsection.
 - b. The approved company shall track the requisite expenditures by county. If the approved company can demonstrate to the satisfaction of the cabinet that it is not practical to use a separate accounting method to determine the expenditures by county, the approved company shall determine the correct expenditures by county using an alternative method approved by the cabinet.
- (d) For a motion picture or entertainment production *or continuous film production* filmed or produced in whole or in part in any Kentucky county other than in an enhanced incentive county, the amount of the incentive shall be equal to:
 1. Thirty percent (30%) of the approved company's:
 - a. Qualifying expenditures;
 - b. Qualifying payroll expenditures paid to below-the-line production crew that are not residents; and
 - c. Qualifying payroll expenditures paid to above-the-line production crew that are not residents, not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee; and
 2. Thirty-five percent (35%) of the approved company's:
 - a. Qualifying payroll expenditures paid to resident below-the-line production crew; and
 - b. Qualifying payroll expenditures paid to resident above-the-line production crew not to exceed one million dollars (\$1,000,000) in payroll expenditures per employee.

➔Section 32. KRS 154.61-030 is amended to read as follows:

- (1) An eligible company shall, at least thirty (30) days prior to incurring any expenditure for which recovery will be sought, file an application for tax incentives with the authority. The application shall include:
 - (a) The name and address of the applicant;
 - (b) Verification that the applicant is a Kentucky-based company;
 - (c) The *preliminary* production script or a detailed synopsis of the script;
 - (d) The locations where the filming or production will occur;
 - (e) The anticipated date on which filming or production shall begin *in Kentucky*;

- (f) The anticipated date on which the **applicant will complete incurring expenditures in Kentucky**~~[production will be completed]~~;
 - (g) The total anticipated qualifying expenditures;
 - (h) The total anticipated qualifying payroll expenditures for resident and nonresident above-the-line crew by county;
 - (i) The total anticipated qualifying payroll expenditures for resident and nonresident below-the-line crew by county;
 - (j) The address of a Kentucky location at which records of the production will be kept;
 - (k) An affirmation that if not for the incentive offered under this subchapter, the eligible company would not film or produce the production in the Commonwealth; and
 - (l) Any other information the authority may require.
- (2) The authority shall notify the eligible company within thirty (30) days after receiving the application of its status.
- (3) Upon receipt of the application and any additional information submitted, the authority shall consider all submitted information and, if appropriate, authorize the execution of a tax incentive agreement between the authority and the approved company, if the amount of anticipated tax credit from the application would not make the total tax credit approved for the calendar year exceed the annual tax credit cap under KRS 154.61-020(4).
- (4) The tax incentive agreement shall include the following provisions:
- (a) The duties and responsibilities of the parties;
 - (b) A detailed description of the motion picture or entertainment production for which incentives are requested;
 - (c) The anticipated qualifying expenditures and qualifying payroll expenditures for resident and nonresident above-the-line and below-the-line crews by county;
 - (d) The minimum combined total of qualifying expenditures and qualifying payroll expenditures necessary for the approved company to qualify for incentives;
 - (e) That the approved company shall:
 1. Begin **filming or production in Kentucky** within six (6) months of **approval by**~~filling an application with~~ the authority; and
 2. Complete production **in Kentucky** within two (2) years of their production start date;
 - (f) That the motion picture or entertainment production shall not include obscene materials and shall not negatively impact the economy or the tourism industry of the Commonwealth;
 - (g) That the execution of the agreement is not a guarantee of tax incentives and that actual receipt of the incentives shall be contingent upon the approved company meeting the requirements established by the tax incentive agreement;
 - (h) That the approved company shall submit to the authority within one hundred eighty (180) days of the completion of **production in Kentucky for** the motion picture or entertainment production a detailed cost report of the qualifying expenditures, qualifying payroll expenditures, and **the latest version of the production script at the time of cost report submission**~~[final script]~~;
 - (i) That the approved company shall provide the authority with documentation that the approved company **or the associated loan-out entity** has withheld income tax as required by KRS 141.310 **or the individual income tax rate imposed by KRS 141.020** on all qualified payroll expenditures for which an incentive under this subchapter is sought;
 - (j) That, if the authority determines that the approved company has failed to comply with any of its obligations under the tax incentive agreement:
 1. The authority may deny the incentives available to the approved company;

2. Both the authority and the Department of Revenue may pursue any remedy provided under the tax incentive agreement;
 3. The authority may terminate the tax incentive agreement; and
 4. Both the authority and the Department of Revenue may pursue any other remedy at law to which it may be entitled;
- (k) That the authority and the Department of Revenue shall monitor the tax incentive agreement;
 - (l) That the approved company shall provide to the authority and the Department of Revenue all information necessary to monitor the tax incentive agreement;
 - (m) That the authority may share information with the Department of Revenue and the Interim Joint Committee on Appropriations and Revenue or any other entity the authority determines is necessary for the purposes of monitoring and enforcing the terms of the tax incentive agreement;
 - (n) That the motion picture or entertainment production shall contain an acknowledgment that the motion picture or entertainment production was produced or filmed in the Commonwealth of Kentucky;
 - (o) That the approved company shall include screen credits in its final production, indicating the approved company received tax incentives from the Commonwealth of Kentucky;
 - (p) Terms of default;
 - (q) The method and procedures by which the approved company shall request and receive the incentive provided under KRS 141.383 and 154.61-020;
 - (r) That the approved company may be required to pay an administrative fee as authorized under subsection (5) of this section; and
 - (s) Any other provisions deemed necessary or appropriate by the parties to the tax incentive agreement.
- (5) The authority may require the approved company to pay an administrative fee, the amount of which shall be established by administrative regulation promulgated in accordance with KRS Chapter 13A. The administrative fee shall not exceed one-half of one percent (0.5%) of the estimated amount of tax incentive sought or five hundred dollars (\$500), whichever is greater.
 - (6) Prior to commencement of activity as provided in a tax incentive agreement, the tax incentive agreement shall be **approved by the authority. Following approval by the authority, the tax incentive agreement shall be** submitted to the Government Contract Review Committee established by KRS 45A.705 for review, as provided in KRS 45A.695, 45A.705, and 45A.725.
 - (7) The authority shall notify the Department of Revenue **following**~~upon~~ approval of an approved company. The notification shall include the name of the approved company, the name of the motion picture or entertainment production, the estimated amount of qualifying expenditures, the estimated date on which the approved company will complete filming or production **in Kentucky**, and any other information required by the department.
 - (8) Within one hundred eighty days (180) days of completion of **production in Kentucky for** the motion picture or entertainment production, the approved company shall submit to the authority a detailed cost report of:
 - (a) Qualifying expenditures;
 - (b) Qualifying payroll expenditures for resident and nonresident above-the-line crew by county;
 - (c) Qualifying payroll expenditures for resident and nonresident below-the-line crew by county; and
 - (d) The **latest version of the production script available at the time of cost report submission**~~[final script]~~.
 - (9) (a) **Cabinet staff**~~[The authority, together with the secretary,]~~ shall review all information submitted for accuracy and shall confirm that all relevant provisions of the tax incentive agreement have been met.
 - (b) Upon confirmation that all requirements of the tax incentive agreement have been met, **cabinet staff**~~[the authority and the secretary]~~ shall review the **latest version of the production script available at the time of cost report submission**~~[final script]~~, and if they determine that the motion picture or entertainment production does not:
 1. Contain visual or implied scenes that are obscene; or

2. Negatively impact the economy or the tourism industry of the Commonwealth;
the authority shall forward the detailed cost report to the Department of Revenue for calculation of the refundable credit.

(10) The Department of Revenue shall:

- (a) Verify that the approved company withheld the proper amount of income tax on qualifying payroll expenditures; and
- (b) Notify the authority of the total amount of refundable credit available on qualifying expenditures and qualifying payroll expenditures.

➔Section 33. KRS 164.6017 is amended to read as follows:

(1) The cabinets shall have all the powers and authority, not explicitly prohibited by statute, necessary and convenient to carry out and effectuate the purposes of KRS 164.6019 to 164.6029, including but not limited to:

- (a) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities; and
- (b) Soliciting, borrowing, accepting, receiving, and expending funds from any public or private source, including but not limited to general fund appropriations of the Commonwealth, grants, or contributions of money, property, labor, or other things of value to be used to carry out the programs' operations, functions, and responsibilities; and
- (c) Notwithstanding the provisions in paragraph (a) of this subsection, the executive director of the Office of Entrepreneurship and ~~{Small Business }~~Innovation shall approve the contracts issued by the cabinet regarding the structure of programs and funding levels in those programs administered by a science and technology organization and created in KRS 154.12-320.

(2) The cabinet may expend money in the funds created in KRS 164.6019 and 164.6027 for reasonable administrative expenses directly incurred in carrying out the requirements of KRS 164.6019 to 164.6029. It is the intent of the General Assembly that the funds created in KRS 164.6019 and 164.6027 be used, to the fullest extent possible, to directly fund project costs. It is also the intent of the General Assembly that the first priority of expenditures of any excess revenues generated from the funds created in KRS 164.6019 and 164.6027 is to replenish general fund appropriations for those same purposes.

(3) The cabinet shall contract with a science and technology organization to administer the programs created in KRS 164.6021 and 164.6029. The cabinet shall work with the science and technology organization to adopt best practices for state investment funds, and shall oversee and approve the application criteria, the process for submission of an application, the types of equity investments permitted, the amount of investments that should be made in each fiscal year, the category or categories of investments that shall be made consistent with the cabinet's strategic plans, and the structure and type of outside expertise or peer review used in the application review process for the programs created in KRS 164.6021 and 164.6029.

(4) No member of the cabinet or the science and technology organization or other administering entity, or their employees or outside experts or their closely related family members, shall directly or indirectly financially benefit in any award, contract, or agreement under the programs.

(5) The cabinet shall submit an annual report prior to November 1 to the Governor and the General Assembly detailing its work related to the programs created in KRS 164.6021 and 164.6029. The annual report shall indicate progress made through investments, and shall include but not be limited to reporting on the progress made in achieving each program's purposes, qualitative and quantitative information concerning the applications received, projects approved and undertaken, companies served, and funding amounts invested in each project or program, as appropriate, and findings and recommendations to increase each program's effectiveness in achieving its purposes.

(6) All records related to the administration of the programs created in KRS 164.6021 and 164.6029 shall be deemed property of the cabinet and shall be deemed open records and subject to public inspection under KRS 61.870 to 61.884. Any research that involves or is a patent, trade secret, or other legally protectable interest shall be exempt from inspection until such time as the intellectual property rights have been fully protected.

➔Section 34. KRS 164.6021 is amended to read as follows:

- (1) The Cabinet for Economic Development shall manage the Kentucky enterprise fund to provide capital to small and medium-size, Kentucky-based companies to undertake feasibility, concept development, research and development, or commercialization work.
- (2) The purpose of the Kentucky enterprise fund is to:
 - (a) Accelerate knowledge transfer and technological innovation, improve economic competitiveness, and spur economic growth in Kentucky-based companies;
 - (b) Support feasibility, concept development, research and development, or commercialization activities that have clear potential to lead to commercially successful products, processes, or services within a reasonable period of time;
 - (c) Stimulate growth-oriented enterprises within the Commonwealth;
 - (d) Encourage partnerships and collaborative projects between private enterprises, Kentucky's colleges and universities, and research organizations;
 - (e) Promote research and development and commercialization activities that are market-oriented; and
 - (f) Support small and medium-sized companies.
- (3) The Kentucky enterprise fund shall be used to fund qualified companies in accordance with this section as follows:
 - (a) Grants of up to fifty thousand dollars (\$50,000) for companies exploring the feasibility of technology commercialization or projects related to feasibility studies, such as incubator and accelerator programs;
 - (b) Funding of up to two hundred fifty thousand dollars (\$250,000) for companies in the concept development phase of technology commercialization;
 - (c) Funding of up to five hundred thousand dollars (\$500,000) for companies advancing and promoting the program goals, as outlined in subsection (2) of this section; and
 - (d) For new investments made on or after July 1, 2021, no qualified company can receive a total investment from the fund in excess of up to five hundred thousand dollars (\$500,000).
- (4) Beginning July 1, 2021, the cabinet shall allocate at least twenty percent (20%) of the annual allotment of funds for the Kentucky enterprise fund to qualified companies located in rural or enhanced incentive counties, as certified under KRS 154.32-050, and at least twenty percent (20%) of the annual allotment of funds to qualified companies located in Opportunity Zones, as designated by the Commonwealth and certified by the Secretary of the United States Treasury.
- (5) For all funding totaling more than thirty thousand dollars (\$30,000), the science and technology organization or any entity designated by the executive director of the Office of Entrepreneurship and ~~Small Business~~ Innovation shall receive an equity interest in the qualified company, such as a general or limited partnership interest, limited liability company interest, common or preferred stock with or without voting rights and without regard to seniority position, forms of subordinate or convertible unsecured debt, or both, with warrants, rights, or other means of equity conversion attached, a near equity interest such as a simple agreement for future equity or "SAFE agreement", or other convertible debt instruments that are determined to qualify as an adequate investment interest by the executive director of the Office of Entrepreneurship and ~~Small Business~~ Innovation.

➔Section 35. KRS 164.6023 is amended to read as follows:

- (1) The science and technology organization shall have the authority, upon approval by the cabinet, to review applications, qualify companies, and certify qualified companies to receive funding from the Kentucky enterprise fund.
- (2) The science and technology organization shall develop application criteria and an application process subject to the following limitations. The proposed project shall be likely to:
 - (a) Produce a measurable result and be technically sound;
 - (b) Lead to innovative technology or new knowledge;
 - (c) Lead to commercially successful products, processes, or services within a reasonable period of time; or

- (d) Show significant potential for stimulating economic growth and a reasonable probability to enhance employment opportunities within the Commonwealth.
- (3) The applicant shall provide to the science and technology organization an application that shall include but not be limited to the following information:
 - (a) Verification that the applicant is an eligible company that meets the definition of a Kentucky-based company and medium-size company or small company;
 - (b) A technology description and plan that is sufficient for outside expert review;
 - (c) A detailed financial analysis that includes the commitment of resources by the applicant and others;
 - (d) Sufficient detail concerning proposed project partners, type and amount of work to be performed and financing to be contributed by each partner, and expected product or service with estimated costs to be reflected in the negotiated contract or agreement; and
 - (e) A statement of the economic development potential of the project.
- (4) The science and technology organization shall conduct an independent review with the use of outside experts to evaluate each application. Following the application review, the science and technology organization shall make a determination of the application and may determine that the applicant is a qualified company as defined in KRS 164.6011.
- (5) Upon a qualified company's presentation of a legal agreement or contract meeting the conditions under subsection (6) of this section, the science and technology organization shall present the qualified company, the project partners, if any, and the college or university in the Commonwealth, if any, with a certification authorizing funding.
- (6) Prior to receiving certification authorizing funding from the science and technology organization, the qualified company shall:
 - (a) Negotiate an agreement and funding contract with a college or university in the Commonwealth, if any, and with a project partner, if any, that is satisfactory to the science and technology organization, to undertake the commercialization work; and
 - (b) Provide assurance to the science and technology organization that the college or university and the qualified company have negotiated the ownership and disposition of patents, royalties, all other intellectual property rights, and equity or related position relating to the contract between the qualifying company and the college or university;

unless the requirement to partner with a college or university is recommended to be waived by the science and technology organization.

- (7) Prior to certifying a qualified company, the science and technology organization may negotiate with the qualified company the ownership and disposition of patents, royalties, all other intellectual property rights, and an equity, near equity such as a simple agreement for future equity or "SAFE agreement", convertible debt, or similar investment format that is approved by the executive director of the Office of Entrepreneurship and ~~Small Business~~ Innovation on behalf of the Kentucky enterprise fund for the sole purpose of reinvesting and sustaining a revolving fund to carry out the provisions of KRS 164.6021 and 164.6023.
- (8) The science and technology organization, upon approval by the cabinet, shall set forth guidelines as to when and how all areas of the state will be notified about the program's availability and a program schedule, including but not limited to the following:
 - (a) A review cycle including:
 - 1. A deadline for submission of applications at least biannually; and
 - 2. A deadline for reviewing applications of no more than one hundred twenty (120) days after the application submission deadline; and
 - (b) A deadline, from the date an applicant is determined to be a qualified company, by which certification shall be made. If certification is not made by that deadline the funding voucher award is made void.

➔Section 36. KRS 174.205 is amended to read as follows:

The Water Transportation Advisory Board shall:

- (1) Advise the Transportation Cabinet, the Cabinet for Economic Development, the Governor's Office, and the General Assembly on matters relating to water transportation;
- (2) Recommend action to enable the Commonwealth to make best use of its waterways and riverports for future economic growth;
- (3) Assist in defining the duties and functions of positions within state government responsible for water transportation;
- (4) Recommend criteria for setting priorities for funding riverport marketing initiatives ~~under the riverport marketing assistance trust fund established in KRS 154.80-140~~;
- (5) Evaluate applications submitted by riverports for grants under the riverport marketing assistance trust fund and make recommendations to the granting authority on the disbursement of those funds;
- (6) Recommend criteria for setting priorities for funding riverport improvements under the riverport financial assistance trust fund established in KRS 174.210; and
- (7) Evaluate applications submitted by riverports for grants under the riverport financial assistance trust fund and make recommendations to the granting authority on the disbursement of those funds.

➔Section 37. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) The limited liability entity tax credit permitted by KRS 141.0401;
 - (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, ~~[141.401,]~~141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
 - (c) The qualified farming operation credit permitted by KRS 141.412;
 - (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (e) The health insurance credit permitted by KRS 141.062;
 - (f) The tax paid to other states credit permitted by KRS 141.070;
 - (g) The credit for hiring the unemployed permitted by KRS 141.065;
 - (h) The recycling or composting equipment credit permitted by KRS 141.390;
 - (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The research facilities credit permitted by KRS 141.395;
 - (k) The employer High School Equivalency Diploma program incentive credit permitted under KRS 151B.402;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The clean coal incentive credit permitted by KRS 141.428;
 - (o) The ethanol credit permitted by KRS 141.4242;
 - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (q) The energy efficiency credits permitted by KRS 141.436;
 - (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (s) The Endow Kentucky credit permitted by KRS 141.438;
 - (t) The New Markets Development Program credit permitted by KRS 141.434;
 - (u) The distilled spirits credit permitted by KRS 141.389;

- (v) The angel investor credit permitted by KRS 141.396;
 - (w) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;
 - (x) The inventory credit permitted by KRS 141.408; and
 - (y) The renewable chemical production credit permitted by KRS 141.4231.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069;
 - (d) The household and dependent care credit permitted by KRS 141.067;
 - (e) The income gap credit permitted by KRS 141.066; and
 - (f) The Education Opportunity Account Program tax credit permitted by KRS 141.522.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and 171.397(1)(b);
 - (d) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018, or on or after January 1, 2022;
 - (e) The development area tax credit permitted by KRS 141.398; and
 - (f) The decontamination tax credit permitted by KRS 141.419.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, ~~[141.401,]~~141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
 - (b) The qualified farming operation credit permitted by KRS 141.412;
 - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (d) The health insurance credit permitted by KRS 141.062;
 - (e) The unemployment credit permitted by KRS 141.065;
 - (f) The recycling or composting equipment credit permitted by KRS 141.390;
 - (g) The coal conversion credit permitted by KRS 141.041;
 - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The research facilities credit permitted by KRS 141.395;
 - (k) The employer High School Equivalency Diploma program incentive credit permitted by KRS 151B.402;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;

- (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The clean coal incentive credit permitted by KRS 141.428;
 - (o) The ethanol credit permitted by KRS 141.4242;
 - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (q) The energy efficiency credits permitted by KRS 141.436;
 - (r) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
 - (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (t) The railroad expansion credit permitted by KRS 141.386;
 - (u) The Endow Kentucky credit permitted by KRS 141.438;
 - (v) The New Markets Development Program credit permitted by KRS 141.434;
 - (w) The distilled spirits credit permitted by KRS 141.389;
 - (x) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;
 - (y) The inventory credit permitted by KRS 141.408;
 - (z) The renewable chemical production tax credit permitted by KRS 141.4231; and
 - (aa) The Education Opportunity Account Program tax credit permitted by KRS 141.522.
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
 - (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and 171.397(1)(b);
 - (c) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018, or on or after January 1, 2022; and
 - (d) The decontamination tax credit permitted by KRS 141.419.

➔Section 38. 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(5)~~((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 Development in the Education and Labor Cabinet.

➔Section 39. The following KRS sections are repealed:

- 141.401 Tax credit and income tax for companies with economic development projects in qualified zones -- Computation of net income -- Administrative regulations.
- 154.12-276 Office of Workforce, Community Development, and Research -- Executive director -- Duties of office.
- 154.23-005 Legislative findings for KRS 154.23-005 to 154.23-079.
- 154.23-010 Definitions for KRS 154.23-005 to 154.23-079.
- 154.23-015 Certification of qualified zones -- Use of census tracts -- Decertification of census tracts -- Replacement of decertified noncontiguous tract with other qualifying census tract.
- 154.23-020 Amendment of boundaries of qualified zones.

- 154.23-025 Standards for approval of companies and economic development projects -- Commitments to be made by eligible companies.
- 154.23-030 Preliminary approval of eligible companies -- Designation of approved companies.
- 154.23-035 Tax incentive agreements between authority and approved companies -- Time limits -- Tax credits and assessments as inducements for approved companies -- Assignment of tax incentive agreement -- Documentation of expenditures -- Suspension of inducements -- Authority's remedies in case of failure to comply -- Activation date -- Costs of counsel.
- 154.23-040 Service and technology agreements -- Time limits for meeting minimum investment and employment requirements -- Inducements during term of agreements -- Suspension or termination of inducements -- Approved costs -- Reduction of inducements.
- 154.23-045 Application of eligible company to become approved company and expand existing business -- Base levels for eligible credits -- Exemption of employees from assessment -- Increase in number of employees at site -- Tax -- Additional agreements.
- 154.23-050 Tax credit for approved company engaged in manufacturing, service, or technology activities -- Reports by Department of Revenue to authority.
- 154.23-055 Assessment based on employee's gross wages -- Amount -- Credits against taxes and fees -- Prorating of credits and assessments against occupational license fees -- Availability of records -- Approval of assessment by local government -- Cessation of assessments.
- 154.23-060 Applications for grant funds -- Approved company may apply inducements toward purchase price of property and improvements.
- 154.23-065 Wage subsidies for recipients of Kentucky Transitional Assistance Program.
- 154.23-070 Administrative regulations.
- 154.23-075 Exemption from personal liability for directors and officers of authority.
- 154.23-079 Short title.
- 154.23-080 Deadline for new applications -- Governing law for outstanding approved projects.
- 154.47-040 Flexible manufacturing networks.
- 154.47-065 Cabinet may establish benchmarks for performance measurement -- Monitoring by Division of Forestry.
- 154.80-140 Riverport marketing assistance trust fund -- Contributions -- Purpose -- Grants -- Semiannual report.
- 154.80-310 Kentucky Waterway Marina Development Program -- Powers of cabinet.

Signed by Governor March 23, 2023.

CHAPTER 76

(HB 538)

AN ACT relating to discipline of students.

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

➔Section 1. KRS 158.150 is amended to read as follows:

- (1) All *students*~~[pupils]~~ admitted to the common schools shall comply with the lawful regulations for the government of the schools:
 - (a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad

conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and

- (b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.
- (2) (a) Each local board of education shall adopt a policy requiring the expulsion from school for a period of ***at least twelve (12) months***~~[not less than one (1) year]~~ for a student who:
- 1. ***Is determined by the board through clear and convincing evidence to have made threats that pose a danger to the well-being of students, faculty, or staff of the district; or***
 - 2. Is determined by the board to have brought a weapon to a school under its jurisdiction. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.
- (b) The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have:
- 1. Possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction;~~[-, or to have]~~
 - 2. Physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction; ***or***
 - 3. ***Physically assaulted, battered, or abused educational personnel or other students off school property and the incident is likely to substantially disrupt the educational process.***
- (3) (a) The board may modify the expulsion requirement ***and length*** for students on a case-by-case basis, ***except the length of expulsion shall be at least twelve (12) months for a violation set forth in subsection (2)(a) of this section.***
- (b) ***Nothing in this section shall prohibit a board from expelling a student for longer than twelve (12) months.***
- (c) A board that has expelled a student from the student's regular school setting shall provide or ***ensure***~~[assure]~~ that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student posed a threat to the safety of other students or school staff and could not be placed into a state-funded agency program. Behavior which constitutes a threat shall include but not be limited to the physical assault, battery, or abuse of others; the threat of physical force; being under the influence of drugs or alcohol; the use, possession, sale, or transfer of drugs or alcohol; the carrying, possessing, or transfer of weapons or dangerous instruments; and any other behavior which may endanger the safety of others. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost.
- (d)
- 1. ***In lieu of expelling a student, or upon the expiration of a student's expulsion, a superintendent may place a student into an alternative program or setting if the superintendent determines placement of the student in his or her regular school setting is likely to substantially disrupt the education process or constitutes a threat to the safety of other students or school staff. The action shall not be taken until the parent, guardian, or other person having legal custody or control of the student has had an opportunity to have a hearing before the board or an appeals committee as described in subparagraph 2. of this paragraph.***
 - 2. ***The board may adopt a policy to establish an appeals committee and delegate the authority to hear appeals made under this paragraph to that committee.***
 - 3. ***The alternative program or setting may be provided virtually.***
 - 4. ***Notwithstanding any other statute or administrative regulation to the contrary, students placed in an alternative program or setting under this paragraph shall be counted in attendance and membership for state funding purposes in the same manner as other students participating in alternative programs of the district.***

5. *Students placed in an alternative program or setting under this paragraph shall be subject to compulsory attendance requirements under KRS Chapter 159 and applicable local board policy.*
6. *Following the initial alternative placement of a student under this paragraph, the board shall review the alternative program or setting placement at least once per year and determine if the placement should be continued in accordance with subparagraph 1. of this paragraph.*

~~(4)~~~~(3)~~ For purposes of this subsection, "charges" means substantiated behavior that falls within the grounds for suspension or expulsion enumerated in subsection (1) of this section, including behavior committed by a student while enrolled in a private or public school, or in a school within another state. A school board may adopt a policy providing that, if a student is suspended or expelled for any reason or faces charges that may lead to suspension or expulsion but withdraws prior to a hearing from any public or private school in this or any other state, the receiving district may review the details of the charges, suspension, or expulsion and determine if the student will be admitted, and if so, what conditions may be imposed upon the admission, *which may include placement of the student into an alternative program or setting as described in subsection (3)(d) of this section.*

~~(5)~~~~(4)~~ (a) School administrators, teachers, or other school personnel may immediately remove or cause to be removed threatening or violent students from a classroom setting or from the district transportation system pending any further disciplinary action that may occur. Each board of education shall adopt a policy to assure the implementation of this section and to assure the safety of the students and staff.

(b) *Except as described in subsection (10) of this section:*

1. *A principal may establish procedures for a student's removal from and reentry to the classroom when the student's behavior disrupts the classroom environment and education process or the student challenges the authority of a supervising adult. In addition to removal, the student shall be subject to further discipline for the behavior consistent with the school's code of conduct.*
2. *A student who is removed from the same classroom three (3) times within a thirty (30) day period shall be considered chronically disruptive and may be suspended from school in accordance with this section, and no other basis for suspension shall be deemed necessary.*
3. *At any time during the school year, for a student who has been removed from the classroom under this paragraph, a principal may require a review of the classroom issues with the teacher and the parent, guardian, or other person having legal custody or control of the student and determine a course of action for the teacher and student regarding the student's continued placement in the classroom.*
4. *At any time during the school year, a principal may permanently remove a student from a classroom for the remainder of the school year if the principal determines the student's continued placement in the classroom will chronically disrupt the education process for other students.*
5. *When a student is removed from a classroom under this paragraph temporarily or permanently, the principal shall determine the placement of the student in lieu of that classroom, which may include but is not limited to:*
 - a. *Another classroom in that school; or*
 - b. *An alternative program or setting, which may be provided virtually, as approved by the superintendent.*
6. *Any permanent action by a principal under this paragraph shall be subject to an appeal process in accordance with a policy adopted by the board.*
7. *Policies compliant with this paragraph shall be included in the code of behavior and discipline adopted by the board of education under KRS 158.148 and the policies adopted by the school council under KRS 160.345.*

~~(6)~~~~(5)~~ A ~~student~~~~[pup]~~ shall not be suspended from the common schools until after at least the following due process procedures have been provided:

- (a) The *student*~~[pupil]~~ has been given oral or written notice of the charge or charges against him *or her* which constitute cause for suspension;
- (b) The *student*~~[pupil]~~ has been given an explanation of the evidence of the charge or charges if the *student*~~[pupil]~~ denies them; and
- (c) The *student*~~[pupil]~~ has been given an opportunity to present his *or her* own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension.

~~(7)(6)~~ (a) The superintendent, principal, assistant principal, or head teacher of any school may suspend a *student*~~[pupil]~~ but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the *student*~~[pupil]~~.

(b) 1. The board of education of any school district may expel *or extend the expulsion of* any *student*~~[pupil]~~ for misconduct as *described*~~[defined]~~ in subsection (1) of this section, but the action shall not be taken until the parent, guardian, or other person having legal custody or control of the *student*~~[pupil]~~ has had an opportunity to have a hearing before the board. The decision of the board shall be final.

2. *Within thirty (30) days prior to the end of a student's expulsion, the board shall review the details of the expulsion and current factors and circumstances, including if ending the expulsion will substantially disrupt the education process or constitute a threat to the safety of students or school staff, to determine if the expulsion shall be extended for a period not to exceed twelve (12) months.*

3. *The expulsion review process shall be used prior to the end of each expulsion period until the board ends the expulsion or the student is no longer subject to compulsory attendance under KRS 159.010.*

4. *Each board of education shall adopt a policy for implementation of the process described in this paragraph.*

~~(8)(7)~~ (a) Suspension of exceptional children, as defined in KRS 157.200, shall be considered a change of educational placement if:

- 1. The child is removed for more than ten (10) consecutive days during a school year; or
- 2. The child is subjected to a series of removals that constitute a pattern because the removals accumulate to more than ten (10) school days during a school year and because of other factors, such as the length of each removal, the total amount of time the child is removed, and the proximity of removals to one another.

(b) The admissions and release committee shall meet to review the placement and make a recommendation for continued placement or a change in placement and determine whether regular suspension or expulsion procedures apply. Additional evaluations shall be completed, if necessary.

(c) If the admissions and release committee determines that an exceptional child's behavior is related to his *or her* disability, the child shall not be suspended any further or expelled unless the current placement could result in injury to the child, other children, or the educational personnel, in which case an appropriate alternative placement shall be provided that will provide for the child's educational needs and will provide a safe learning and teaching environment for all. If the admissions and release committee determines that the behavior is not related to the disability, the local educational agency may pursue its regular suspension or expulsion procedure for the child, if the behavior so warrants. However, educational services shall not be terminated during a period of expulsion and during a suspension after a student is suspended for more than a total of ten (10) days during a school year. A district may seek temporary injunctive relief through the courts if the parent and the other members of the admissions and release committee cannot agree upon a placement and the current placement will likely result in injury to the student or others.

~~(9)(8)~~ Suspension of primary school students shall be considered only in exceptional cases where there are safety issues for the child or others.

- ~~(10)(9)~~ Any action under this section related to students with disabilities shall be in compliance with applicable federal law.
- (11) *Nothing in this section shall be interpreted or construed to preclude the requirements contained in KRS 158.305 or 158.4416.*

Signed by Governor March 23, 2023.

CHAPTER 77

(HB 180)

AN ACT relating to coverage for biomarker testing.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Biomarker":*

1. *Means a characteristic that is objectively measured and evaluated as an indicator of normal biologic processes, pathogenic processes, or pharmacologic responses to a specific therapeutic intervention, including known gene-drug interactions for medications being considered for use or already being administered; and*
2. *Includes but is not limited to gene mutations and protein expression;*

(b) *"Biomarker testing":*

1. *Means the analysis of a patient's tissue, blood, or other biospecimen for the presence of a biomarker; and*
2. *Includes but is not limited to single-analyte tests, multiplex panel tests, and whole genome sequencing;*

(c) *"Consensus statements" means statements that are:*

1. *Developed by an independent, multidisciplinary panel of experts utilizing a transparent methodology and reporting structure with a conflict of interest policy;*
2. *Aimed at specific clinical circumstances; and*
3. *Based on the best available evidence for the purpose of optimizing the outcomes of clinical care;*

(d) *"FDA" means the United States Food and Drug Administration; and*

(e) *"Nationally recognized clinical practice guidelines" means evidence-based clinical practice guidelines that:*

1. *Are developed by an independent organization or medical professional society utilizing a transparent methodology and reporting structure with a conflict of interest policy;*
2. *Establish standards of care informed by:*
 - a. *A systematic review of evidence; and*
 - b. *An assessment of the benefits and risks of alternative care options; and*
3. *Include recommendations intended to optimize care.*

- (2) *A health benefit plan shall provide coverage for biomarker testing when ordered by a qualified health care provider operating within the provider's scope of practice for the purpose of diagnosis, treatment,*

appropriate management, or ongoing monitoring of an insured's disease or condition when the test is supported by medical and scientific evidence, including but not limited to:

- (a) *Labeled indications for an FDA-approved or FDA-cleared test;*
 - (b) *Indicated tests for an FDA-approved drug;*
 - (c) *Warnings and precautions on FDA-approved drug labels;*
 - (d) *Centers for Medicare and Medicaid Services national coverage determinations;*
 - (e) *Medicare Administrative Contractor local coverage determinations;*
 - (f) *Nationally recognized clinical practice guidelines; or*
 - (g) *Consensus statements.*
- (3) *The coverage required under this section shall be provided in a manner that limits disruptions in care, including the need for multiple biopsies or biospecimen samples.*
- (4) *When coverage for biomarker testing is restricted by an insurer or a third party acting on behalf of the insurer, the insured and prescribing practitioner shall have access to a clear, readily accessible, and convenient process on the insurer's website to request an exception to the coverage policy.*
- (5) *Any prior authorization requirement applicable to coverage required under this section shall comply with any existing prior authorization laws, including but not limited to KRS 304.17A-607.*
- (6) *Nothing in this section shall be construed to:*
- (a) *Require coverage of biomarker testing for screening purposes; or*
 - (b) *Limit coverage required under:*
 - 1. *KRS 304.17A-259;*
 - 2. *Section 2 of this Act; or*
 - 3. *Any other law.*

➔Section 2. KRS 205.522 is amended to read as follows:

- (1) The Department for Medicaid Services and any managed care organization contracted to provide Medicaid benefits pursuant to this chapter shall comply with the provisions of *Section 1 of this Act and* KRS 304.17A-163, 304.17A-1631, 304.17A-167, 304.17A-235, 304.17A-257, 304.17A-259, 304.17A-515, 304.17A-580, 304.17A-600, 304.17A-603, 304.17A-607, and 304.17A-740 to 304.17A-743, as applicable.
- (2) A managed care organization contracted to provide Medicaid benefits pursuant to this chapter shall comply with the reporting requirements of KRS 304.17A-732.

➔Section 3. This Act shall apply to health benefit plans issued, delivered, amended, or renewed on or after January 1, 2024.

➔Section 4. This Act takes effect January 1, 2024.

Signed by Governor March 23, 2023.

CHAPTER 78

(HB 544)

AN ACT relating to the regulation of hemp-derived products.

WHEREAS, on August 3, 2022, the Boone Circuit Court entered a permanent injunction prohibiting the Kentucky State Police from instituting or continuing any criminal enforcement action against a person in possession of certain products containing delta-8 tetrahydrocannabinol (THC); and

WHEREAS, on November 15, 2022, Governor Andy Beshear issued Executive Order 2022-799, stating that delta-8 is a form of THC, delta-8 can be derived from cannabidiol (CBD) through further processing, and products containing delta-8 are sold at retail businesses in Kentucky and surrounding states; and

WHEREAS, Executive Order 2022-799 further stated that there are no requirements currently applied to delta-8 products sold in Kentucky for their packaging and labeling or for their use as ingestible cannabinoid products, and that certain requirements that exist for the packaging and labeling of CBD products sold in Kentucky should also apply to delta-8 products to ensure the public's protection; and

WHEREAS, Executive Order 2022-799 further stated that under KRS 217.125(1) of the Food, Drug, and Cosmetic Act, the Cabinet for Health and Family Services has the authority to promulgate administrative regulations for the administration and enforcement of KRS 217.005 to 217.215; and

WHEREAS, the cabinet promulgated 902 KAR 45:190 to regulate hemp-derived CBD products and establish packaging and labeling requirements for such products; and

WHEREAS, since delta-8 THC is a cannabinoid, 902 KAR 45:190 applies to delta-8 THC products and application of this administrative regulation to delta-8 THC products will ensure the safety of those purchasing and consuming those products and establish a regulatory framework that in the future may be applied to medical cannabis if approved by the Kentucky General Assembly; and

WHEREAS, in Executive Order 2022-799, the Governor ordered and directed that the secretary of the Cabinet for Health and Family Services include delta-8 THC products sold in Kentucky under 902 KAR 45:190; and

WHEREAS, by virtue of Executive Order 2022-799, the Governor also ordered and directed the Cabinet for Health and Family Services to take all necessary steps to implement and enforce 902 KAR 45:190 as applied to delta-8 THC products sold in Kentucky, including but not limited to designating any other state agency as its duly authorized agent to assist with implementation and enforcement of the administrative regulation under KRS 217.155; and

WHEREAS, the General Assembly and this Commonwealth have an interest in limiting the ability of minor children to obtain delta-8 THC products and other products that have intoxicating effects on consumers, and in ensuring that adult consumers of such products have access to accurate information about their contents;

NOW, THEREFORE,

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

➔Section 1. (1) The General Assembly directs the Cabinet for Health and Family Services to immediately begin the process of regulating delta-8 tetrahydrocannabinol and any other hemp-derived substances.

(2) As used in this section:

(a) "Covered product" means any product containing delta-8 tetrahydrocannabinol or any other hemp-derived substance identified by the Cabinet for Health and Family Services as having intoxicating effects on consumers; and

(b) "Production" has the same meaning as in KRS 218A.010.

(3) Not later than August 1, 2023, the Cabinet for Health and Family Services shall promulgate an emergency administrative regulation with applicability to covered products that:

(a) Implements measures called for in Executive Order 2022-799;

(b) Prohibits the sale, gift, or other transfer of possession of covered products to a person who has not reached the age of 21 years;

(c) Prohibits the possession of covered products by a person who has not reached the age of 21 years;

(d) Requires retailers to keep covered products behind the counter in order to prevent theft or easy access by children;

(e) Establishes a laboratory testing and approval process for contaminants and phytochemicals of a covered product;

(f) Prohibits a covered product to be sold or distributed in the Commonwealth unless it has been approved under paragraph (e) of this subsection;

(g) Requires each covered product manufactured, marketed, sold, or distributed in the Commonwealth to be packaged and labeled in accordance with KRS 217.037;

(h) Except as established in paragraph (i) of this section, requires that a covered product's label include, in a print no less than six point font, the following information:

1. A statement of identity or common product name on the principal display panel of the label;
2. The net quantity of contents expressed in both standard English and metric units of measurement, located in the lower 30 percent of the principal display panel of the label parallel to the base of the container;
3. The ingredients of the product, in descending order of predominance by weight;
4. The name of the manufacturer or distributor;
5. The total amount of each cannabinoid per serving for ingestible products, or the total amount per container for cosmetic products;
6. Suggested use instructions or directions, including serving sizes; and
7. An expiration date, if any;

(i) Requires an ingestible or cosmetic covered product that has a total area of 12 square inches or less to bear labeling in accordance with paragraph (h) of this subsection, except the print may be smaller than six point font but not less than 1/32 of an inch in height;

(j) Requires each covered product container have a tamper evident seal;

(k) Prohibits covered product packaging, labeling, or advertising material from bearing any implicit or explicit health claims stating that the covered product can diagnose, treat, cure, or prevent any disease; and

(l) 1. Permits a Kentucky production facility that is shipping a covered product to a state with testing requirements for the covered product, to defer to that state's requirements; and

2. Requires a Kentucky production facility that is shipping a covered product to a state without testing requirements for the covered product, to abide by Kentucky's requirements.

Signed by Governor March 23, 2023.

CHAPTER 79

(SJR 58)

A JOINT RESOLUTION designating the Brigadier General Charles Young Memorial Historical Corridor.

WHEREAS, the late Brigadier General Charles Young was born to enslaved parents Gabriel and Arminta Young in Mays Lick, Kentucky, on March 12, 1864; and

WHEREAS, General Charles Young was the third African American cadet to graduate from the United States Military Academy at West Point in 1889; and

WHEREAS, upon graduation, General Charles Young served with the Ninth and Tenth Cavalries; he was appointed Major in the Ohio National Guard in 1898 and placed in command of its Ninth Infantry Battalion; and during that time he served as Professor of Military Science at Wilberforce University in Ohio; and

WHEREAS, as a Captain in 1901, General Charles Young commanded a troop of the Ninth Cavalry in combat in the Philippine Islands during the Philippine Insurrection; and

WHEREAS, in 1903, General Charles Young led a cavalry unit based out of the Presidio in San Francisco; and he became the first African American Superintendent of Sequoia National Park and oversaw the extension of roads into the park, making many parts accessible to visitors for the first time; and

WHEREAS, by 1904, General Charles Young became the first African American officer appointed to duty as a military attaché, serving in Hispaniola (Haiti and Dominican Republic); by 1912, General Charles Young was military attaché to Liberia, where he was promoted to Major and developed the Liberian Frontier Forces and built

roads; and in 1916, he was awarded the Spingarn Award from the NAACP for his exceptional work developing Liberia's infrastructure; and

WHEREAS, General Charles Young was reassigned to the Tenth United States Cavalry and served in the Punitive Expedition in Mexico with General Pershing from 1916 to 1917, where he led a cavalry charge against Pancho Villa's troops and was wounded rescuing a large part of the Thirteenth Cavalry; and for his leadership, General Charles Young was promoted to Lieutenant Colonel; and

WHEREAS, at the beginning of the First World War, General Charles Young challenged a decision declaring him medically unfit for service by riding 500 miles on horseback from Wilberforce, Ohio, to Washington, D.C., and by June 1918, he was reinstated and assigned as military attaché to Liberia; and

WHEREAS, General Charles Young was struck critically ill while on an intelligence mission, later died on January 8, 1922, and was buried in Arlington National Cemetery on June 1, 1923; and

WHEREAS, General Charles Young's extraordinary military career spanned 33 years of segregated service at a time when our nation was plagued by the internal struggle of racism; and from 1894 until his death in 1922, General Charles Young was the highest-ranking African American in the United States Armed Forces; and

WHEREAS, due to the mores of the time, General Charles Young was not granted the opportunity to receive a promotion through service during the First World War; and many opine that Charles Young would have been the first African American Brigadier General in the service of the United States Military; and

WHEREAS, after dogged effort by historians and veterans' organizations, Secretary of the Army Christine Wormuth approved the posthumous promotion of Charles Young to brigadier general on October 6, 2021; and

WHEREAS, at a posthumous honorary ceremony at West Point on April 29, 2022, Undersecretary of the Army Gabe Camarillo congratulated the Young family on General Charles Young's trailblazing career, which was marked by his leadership, dedication to duty, and steadfast determination, remarking, "Charles Young was a soldier, an intellectual, a civil rights pioneer, and a man who loved his family deeply. When I think of Charles Young, the word 'triumph' comes to mind. He faced unjust and harrowing circumstances that tested him time and again, but he triumphed"; and

WHEREAS, although the General Assembly has already seen fit to honor the life and accomplishments of Brigadier General Charles Young by designation of a memorial highway near his birthplace in his honor, it is appropriate that more significant recognition be granted to this trailblazing American; and

WHEREAS, the General Assembly is supportive of the multistate proposal to establish a historical corridor linking Camp Nelson in Kentucky, which played a significant role in Black military history during the Civil War, and the Charles Young Buffalo Soldier National Monument in Ohio;

NOW, THEREFORE,

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

➔Section 1. The Transportation Cabinet shall designate the area from Camp Nelson in Jessamine County to the Kentucky/Ohio border at Mays Lick, Kentucky, as the "Brigadier General Charles Young Memorial Historical Corridor" and shall denote this designation with appropriate signage and on maps where practical.

➔Section 2. The Transportation Cabinet and the Tourism, Arts and Heritage Cabinet shall work cooperatively to promote the historic, military, and cultural importance of the Brigadier General Charles Young Memorial Historical Corridor and the many important historical sites along this route.

➔Section 3. The Transportation Cabinet and the Tourism, Arts and Heritage Cabinet shall work cooperatively with their counterparts in Ohio to promote the Brigadier General Charles Young Memorial Historical Corridor as a unique historical treasure outlining a time in our Nation's history when great men overcame barriers to help preserve and defend their country.

Signed by Governor March 23, 2023.

AN ACT relating to unemployment insurance.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

At the time of being notified of a valid claim, the Office of Unemployment Insurance shall advise the eligible worker of the following resources:

- (1) *Five (5) additional weeks of benefits as set forth in subsection (5) of Section 9 of this Act by complying with an approved job training and certification program as described in Section 3 of this Act;*
- (2) *The Work Ready Kentucky Scholarship Program administered by the Kentucky Higher Education Assistance Authority;*
- (3) *The Federal Pell Grant Program;*
- (4) *The Free Application for Federal Student Aid (FAFSA); and*
- (5) *Additional education and training resources determined to be appropriate by the secretary that would support the worker in obtaining skills or credentials necessary to find employment.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

The secretary shall provide to the Legislative Research Commission a copy of any notification received by the cabinet from the United States Department of Labor or any division thereof regarding the conformity of state unemployment compensation with the Federal Unemployment Tax Act, 26 U.S.C. sec. 3301 et seq., the Social Security Act of 1935, 42 U.S.C. sec. 301 et seq., or the Federal-State Extended Unemployment Compensation Act of 1970, Pub. L. No. 91-373, within five (5) days of receiving the notification.

➔Section 3. KRS 341.005 is amended to read as follows:

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

- (1) "Approved job training or certification program" means:
 - (a) A program approved by the secretary that leads to a short-term certificate or credential, 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 Cabinet; ~~{or}~~
 - (b) A program approved and determined by the secretary to improve an individual's employability in a high-wage, high-demand occupation; *or*
 - (c) *A training program approved under the Trade Act of 1974, 19 U.S.C. sec. 2296;*
- (2) "Cabinet" means the Education and Labor Cabinet;
- (3) "Commission" means the Unemployment Insurance Commission;
- (4) "Enhanced federal benefits" means any temporary federally funded or partially federally funded benefits, administered by the Commonwealth and payable through voluntary agreements between the Commonwealth and the United States Department of Labor, that supplement or increase weekly state benefit amounts. "Enhanced federal benefits" does not mean benefits such as, without limitation, benefits otherwise calculated and distributed in accordance with KRS 341.350 to 341.415, extended benefits provided for in KRS 341.700 to 341.740, ~~for~~ shared work benefits provided for in KRS 341.4161 to 341.4173, *disaster unemployment assistance benefits, 42 U.S.C. sec. 5177, or trade readjustment allowances, 19 U.S.C. secs. 2291 to 2294 or any amendments thereto;*
- (5) "Secretary" means the secretary of the Education and Labor Cabinet or his or her duly authorized representative; and
- (6) "State average unemployment rate" means the seasonal adjusted statewide unemployment rate that applies to the six (6) month period in which the claim is filed. One six (6) month period shall begin on January 1 of each year and one six (6) month period shall begin on July 1 of each year. For the six (6) month period beginning on January 1, the state average unemployment rate shall be the average of Kentucky's seasonal adjusted unemployment rates for the preceding months of July, August, and September. For the six (6) month period beginning on July 1, the state average unemployment rate shall be the average of Kentucky's seasonal adjusted unemployment rates for the preceding months of January, February, and March. In calculating the state

average unemployment rate, the cabinet shall utilize the most recent seasonal adjusted unemployment rate determined by the United States Department of Labor, Bureau of Labor Statistics.

➔Section 4. KRS 341.100 is amended to read as follows:

- (1) In determining for any purpose under this chapter whether or not any work is suitable for a worker the secretary shall consider, among other pertinent conditions, the degree of risk involved to his or her health, safety and morals; his or her physical fitness and prior training; his or her experience and prior earnings; his or her length of unemployment and prospects for securing local work in his or her customary occupation; and the distance of the available work from his or her residence. ***The secretary shall consider any employment offer to be suitable work:***
 - (a) ***That is offered to a worker who has received at least six (6) weeks of benefits during his or her present period of unemployment;***
 - (b) ***For which the worker will be paid one hundred twenty percent (120%) of his or her weekly benefit amount;***
 - (c) ***That is located within a distance of thirty (30) miles of the worker's residence, or is work that can be completed remotely on a permanent basis; and***
 - (d) ***That the worker is able and qualified to perform, regardless of whether or not he or she has related experience or training.***
- (2) For the purpose of this chapter, no work shall be suitable nor shall benefits be denied under this chapter to any otherwise eligible worker for refusing to accept new work or new conditions of work under one (1) or more of the following:
 - (a) If the position offered is vacant due directly to a strike, lock-out or other labor dispute;
 - (b) If the wages, hours, or other conditions of the work offered are substantially less favorable than those prevailing for similar work in the locality;
 - (c) If, as a condition of being employed, the worker would be required to join a company union or to resign from or refrain from joining any bona fide labor organization; and
 - (d) If the acceptance of such work would be prejudicial to the continuance of an established employer-employee relationship to which the worker is a party.

~~{(3) Notwithstanding any other provision in this section, the secretary shall consider any employment offer to be suitable work for the purposes of this chapter:~~

- ~~(a) That is offered to a worker who has received at least six (6) weeks of benefits during his or her present period of unemployment;~~
- ~~(b) For which the worker will be paid one hundred twenty percent (120%) of his or her weekly benefit amount;~~
- ~~(c) That is located within a distance of thirty (30) miles of the worker's residence, or is work that can be completed remotely on a permanent basis; and~~
- ~~(d) That the worker is able and qualified to perform, regardless of whether or not he or she has related experience or training.]~~

➔Section 5. KRS 341.127 is amended to read as follows:

- (1) By December 1, 2021, and annually thereafter until December 1, 2025, the cabinet shall report to the Governor and the Interim Joint Committee on Economic Development and Workforce Investment:
 - (a) The status of the unemployment trust fund, including any federal advances required for trust fund solvency;
 - (b) The average claim duration for individuals receiving unemployment benefits; and
 - (c) The average weekly wage for individuals receiving unemployment benefits.
- (2) By December 1, 2021, the cabinet shall report to the Governor and the Interim Joint Committee on Economic Development and Workforce Investment a review of the amount of wages subject to tax. The review shall include:

- (a) An analysis of the equitable treatment of employers based on the amount of wages subject to tax;
 - (b) A comparison of the percentage of wages subject to tax for small, medium, and large businesses; and
 - (c) Examples of how changes to the amount of wages subject to tax would impact trust fund balances and employer contributions.
- (3) By December 1, 2022, and annually thereafter until December 1, 2025, the cabinet shall report to the Governor and the Interim Joint Committee on Economic Development and Workforce Investment and provide analysis of the impact of the shared work benefits described in KRS 341.4161 to 341.4173, the unemployment trust fund, and unemployment insurance taxes paid by employers.
- (4) ***By December 1, 2023, the cabinet shall report to the Governor and the Interim Joint Committee on Economic Development and Workforce Investment a review of potential changes to the computation of employer contribution rates and how these changes could affect employer contribution rates and the unemployment insurance trust fund. Potential changes considered in the analysis shall include:***
- (a) ***Setting the number of consecutive calendar quarters for a new employer to receive his or her own unique experience rating at four (4) consecutive calendar quarters under Sections 6 and 7 of this Act;***
 - (b) ***Changing the computation of the "reserve ratio" formula in subsection (5)(c) of Section 6 of this Act to include an annual average of taxable payrolls of twelve (12) consecutive calendar quarters;***
 - (c) ***Making any amendments to the rate schedule table in Section 6 of this Act based on changes listed in paragraphs (a) and (b) of this subsection to ensure unemployment insurance trust fund sustainability;***
 - (d) ***Charging benefits to employers in proportion to base period wages rather than that of the most recent employer;***
 - (e) ***Indexing the unemployment insurance trust fund balance computations in subsection (3) of Section 6 of this Act to inflation and making annual adjustments thereafter; and***
 - (f) ***Indexing the taxable wage base to inflation and making annual adjustments thereafter, pursuant to KRS 341.030.***
- (5)~~(4)~~ This section expires on January 31, 2026.

➔Section 6. 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 or she has been an employer subject to the provisions of this chapter for ~~twelve (12)~~~~four (4)~~ 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 or her reserve ratio as shown in the "Employer Reserve Ratio" column of the same table.

TABLE A

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 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 or her reserve account balance as of the computation date to his or her taxable payrolls for the **twelve (12)**~~four (4)~~ 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 or her 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 years 2021 and 2022, the employer contribution rates shall be determined using the rates listed in Schedule A of Table A.

➔Section 7. KRS 341.272 is amended to read as follows:

- (1) Notwithstanding any section of this chapter to the contrary, on or after July 15, 1984, any new domestic corporation, or any foreign corporation authorized to do business in this state, or any foreign corporation active in conjunction with a domestic corporation in a joint venture, partnership or other legal entity engaged in the contract construction trades shall pay contributions equal to the maximum rate of contributions payable under the rate schedule in effect for any given calendar year as determined by KRS 341.270; and, such maximum rate of contributions shall remain in effect until the employer has employed persons in this state for not less

than ~~twelve (12)~~~~four (4)~~ consecutive calendar quarters ending as of June 30 immediately preceding the computation date. Thereafter, such employer's contribution rate shall be determined in accordance with the provisions of subsection (4) of KRS 341.270.

- (2) On or after January 1, 1989, any new domestic or foreign proprietorship or partnership engaged in the contract construction trades shall be subject to the provisions of subsection (1) of this section.

➔Section 8. KRS 341.375 is amended to read as follows:

- (1) An employer may notify the secretary in writing or electronically of each worker who has declined to accept suitable work when offered or has failed to attend a first interview for suitable work, whether held in-person, virtually, or by phone. The notice shall contain:
- A statement that identifies a person or persons with knowledge of the information;
 - The name and contact information of the person or persons with knowledge of the information; and
 - Specific and detailed information regarding the decline of an offer of suitable work or the failure to attend a first interview regarding suitable work that may potentially disqualify the worker from receiving benefits.
- (2) The information contained in the notice shall be considered, **but not solely relied on**, when making a determination of eligibility for benefits ~~[is made and may constitute grounds for ineligibility]~~. **The secretary shall consider the suitability of work in making an eligibility determination pursuant to Section 4 of this Act.**
- (3) The secretary shall provide a portal in which the notice in subsection (1) of this section can be made online.

➔Section 9. KRS 341.385 is amended to read as follows:

- (1) The duration of benefits available to each eligible recipient based upon the state average unemployment rate at the time of his or her application for benefits, up to a maximum of twenty-four (24) weeks, shall be as follows:
- ~~State average unemployment rate of less than or equal to four and one-half percent (4.5%): twelve (12) weeks of benefits available;~~
 - ~~State average unemployment rate of greater than four and one-half percent (4.5%) up to and including five percent (5%): thirteen (13) weeks of benefits available;~~
 - ~~State average unemployment rate of greater than five percent (5%) up to and including five and one-half percent (5.5%): fourteen (14) weeks of benefits available;~~
 - ~~State average unemployment rate of greater than five and one-half percent (5.5%) up to and including six percent (6%): fifteen (15) weeks of benefits available;~~
 - ~~(a)~~ State average unemployment rate of **less than or equal to** ~~greater than six percent (6%) up to and including]~~ six and one-half percent (6.5%): sixteen (16) weeks of benefits available;
 - ~~(b)~~ State average unemployment rate of greater than six and one-half percent (6.5%) up to and including seven percent (7%): seventeen (17) weeks of benefits available;
 - ~~(c)~~ State average unemployment rate of greater than seven percent (7%) up to and including seven and one-half percent (7.5%): eighteen (18) weeks of benefits available;
 - ~~(d)~~ State average unemployment rate of greater than seven and one-half percent (7.5%) up to and including eight percent (8%): nineteen (19) weeks of benefits available;
 - ~~(e)~~ State average unemployment rate of greater than eight percent (8%) up to and including eight and one-half percent (8.5%): twenty (20) weeks of benefits available;
 - ~~(f)~~ State average unemployment rate of greater than eight and one-half percent (8.5%) up to and including nine percent (9%): twenty-one (21) weeks of benefits available;
 - ~~(g)~~ State average unemployment rate of greater than nine percent (9%) up to and including nine and one-half percent (9.5%): twenty-two (22) weeks of benefits available;
 - ~~(h)~~ State average unemployment rate of greater than nine and one-half percent (9.5%) up to and including ten percent (10%): twenty-three (23) weeks of benefits available; and

~~(i)(m)~~ State average unemployment rate of greater than ten percent (10%): twenty-four (24) weeks of benefits available.

~~(2)~~ The classification system set forth in subsection (1) of this section shall not apply to claimants with verified definite return to work or recall to work prospects within a period of sixteen (16) weeks from the date of filing of the initial or reopened claim, who shall instead receive one hundred percent (100%) of the weekly benefit rate for each week that they are otherwise eligible, up to sixteen (16) weeks unless the state average unemployment rate is higher than six and one half percent (6.5%), in which case the maximum duration of weeks for these claimants shall follow the classification system set forth in subsection (1) of this section.]

~~(2)(3)~~ The classification system set forth in subsection (1) of this section shall apply to regular benefits and shall not affect the duration of shared work benefits as set forth in KRS 341.4161 to 341.4173 [or to the duration of extended benefits set forth in KRS 341.700 to 341.740].

~~(3)(4)~~ A claimant who has been classified with a group classification code by the agency that meets the requirements of subsection (1) of this section shall remain in this classification throughout the benefit year regardless of whether or not the claimant's classification changes.

~~(4)(5)~~ The secretary may, with the approval of the General Assembly, extend the maximum amount of regular benefits payable, not to exceed twenty-six (26) times the claimant's weekly benefit rate, if:

- (a) An extension for benefits is authorized by the federal government, but only while federal funding is available; or
- (b) During, but not exceeding, any extended benefit period as described in KRS 341.094.

~~(5)~~ ~~(a)(6)~~ Any otherwise eligible individual who is certified as being enrolled and making satisfactory progress in an approved job training or certification program shall be entitled, during the current benefit year, to receive up to an additional five (5) weeks of benefits after all regular benefits have been exhausted under subsection (1) of this section.

~~(b)(a)~~ The amount of benefits payable under this subsection shall equal the weekly benefit amount established by the most recent benefit year.

~~(c)(b)~~ Benefits under this subsection shall not be paid to an individual who is receiving benefits of comparable value or other training allowances from other unrelated sources.

➔Section 10. KRS 341.4169 is amended to read as follows:

(1) An individual is eligible to receive shared work unemployment compensation benefits with respect to any week only if the secretary finds that:

- (a) The individual is employed as a member of an affected group under an approved plan that was approved by the secretary before the week and is in effect for the week;
- (b) The individual is able to work and is available for the normal work week with the shared work employer; and
- (c) The normal weekly hours of work of the individual are reduced by at least ten percent (10%) but not more than forty percent (40%), with a corresponding reduction in wages.

(2) A worker shall not be denied shared work benefits if he or she is otherwise eligible for these benefits for any week by reason of the application of any provision of this chapter relating to availability for work, active search for work or participation in work search activities, or refusal to apply for or accept work from other than the worker's shared work employer.

(3) A worker shall not be denied shared work benefits if he or she is otherwise eligible for these benefits for any week because he or she is participating in ***any employer sponsored training or worker training funded by the Workforce Innovation and Opportunity Act, 29 U.S.C. Ch. 32*** [training sponsored by, or at the direction of, the shared work employer].

(4) Notwithstanding any other provision in this chapter, a worker shall be deemed unemployed in any week for which compensation is payable to him or her, as an employee in an affected group, for less than his or her normal weekly hours of work in accordance with an approved plan in effect for the week.

➔Section 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, unconstitutional, or in violation of any federal law:

- (1) The invalid provision shall be null and void; and
- (2) Its invalidity shall not affect other provisions or application of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

➔Section 12. This Act shall take effect July 1, 2023.

Signed by Governor March 23, 2023.

CHAPTER 81

(SB 30)

AN ACT relating to the termination of automatic renewal offers and continuous service offers.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act, unless the context indicates otherwise:

- (1) *"Automatic renewal" means a plan or arrangement in which a paid subscription, membership, or purchase agreement is automatically renewed at the end of a definite paid term for a subsequent paid term of more than one (1) month;*
- (2) *"Automatic renewal offer terms" means the following clear and conspicuous disclosures:*
 - (a) *That the paid subscription or purchase agreement will continue until the consumer cancels;*
 - (b) *The description of the cancellation policy that applies to the offer;*
 - (c) *The recurring charges that will be charged to the consumer's credit or debit card or payment account with a third party as part of the automatic renewal plan or arrangement, that the amount of the charge may change, if that is the case, and the amount to which the charge will change, if known;*
 - (d) *The length of the automatic renewal term or that the service is continuous, unless the length of the term is chosen by the consumer; and*
 - (e) *The minimum purchase obligation, if any;*
- (3) *"Clear and conspicuous" means in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks, in a manner that clearly calls attention to the language. In the case of an audio disclosure, "clear and conspicuous" and "clearly and conspicuously" mean in a volume and cadence sufficient to be readily audible and understandable;*
- (4) *"Consumer" means an individual who acquires goods or services for personal, family, or household purposes; and*
- (5) *"Continuous service" means a plan or arrangement in which a paid subscription or purchase agreement continues for an indefinite term until the consumer cancels the service.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

- (1) *A business that makes an automatic renewal or continuous service offer to a consumer in this state shall:*
 - (a) *Present the automatic renewal offer terms or continuous service offer terms in a clear and conspicuous manner before the subscription or purchase agreement is fulfilled and in visual proximity, or in the case of an offer conveyed by voice, in temporal proximity, to the request for consent to the offer. If the offer also includes a free gift or trial, the offer shall include a clear and conspicuous explanation of the price that will be charged after the trial ends or the manner in which the subscription or purchase agreement pricing will change upon conclusion of the trial;*
 - (b) *Obtain the consumer's affirmative consent to the purchase agreement with the automatic renewal offer terms or continuous service offer terms, including the terms of an automatic renewal offer or continuous service offer that is made at a promotional or discounted price for a limited period of*

time, before charging the consumer's credit or debit card, or the consumer's account with a third party, for an automatic renewal offer or continuous service offer; and

- (c) Provide an acknowledgment that includes the automatic renewal offer terms or continuous service offer terms, cancellation policy, and information regarding how to cancel in a manner that is capable of being retained by the consumer. If the automatic renewal offer or continuous service offer includes a free gift or trial, the business shall also disclose in the acknowledgment how to cancel, and allow the consumer to cancel, the automatic renewal or continuous service before the consumer pays for the goods or service.*
- (2) A business that makes an automatic renewal offer or continuous service offer shall provide a toll-free telephone number, electronic mail address, postal address if the seller directly bills the consumer, or another cost-effective, timely, and easy-to-use mechanism for cancellation that shall be described in the acknowledgment specified in subsection (1)(c) of this section.*
- (3) A business that allows a consumer to accept an automatic renewal or continuous service online shall allow that consumer to terminate the automatic renewal or continuous service offer exclusively online which may include a termination e-mail formatted and provided by the business that a consumer can send to the business without additional information.*
- (4) In the event of a material change in the terms of the automatic renewal or continuous service that has been accepted by a consumer in this state, the business shall provide the consumer with a clear and conspicuous notice of the material change and provide information regarding how to cancel in a manner that is capable of being retained by the consumer.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Sections 1 and 2 of this Act shall not apply to:

- (1) Any service provided by a business or its affiliate where either the business or its affiliate is operating pursuant to a franchise issued by a political subdivision of this state or a license, franchise, certificate, or other authorization issued by the Kentucky Public Service Commission;*
- (2) Any service provided by a business or its affiliate where either the business or its affiliate is regulated by the Kentucky Public Service Commission, the Federal Communications Commission, or the Federal Energy Regulatory Commission;*
- (3) Any person or entity that is an insurer as defined in KRS 304.1-040 or regulated under KRS Chapter 304 or an affiliate of that person or entity;*
- (4) Any person or entity providing service contracts as described in KRS 304.5-070 or an affiliate of that person or entity;*
- (5) A bank as defined in 12 U.S.C. sec. 1813(a) or Subtitle 3 of KRS Chapter 286;*
- (6) A federal or state credit union as defined in 12 U.S.C. sec. 1752 or a credit union as defined in Subtitle 6 of KRS Chapter 286;*
- (7) A savings association as defined in 12 U.S.C. sec. 1813(b);*
- (8) A consumer loan company as licensed under Subtitle 4 of KRS Chapter 286;*
- (9) Providers of in-vehicle, roadside assistance, or travel subscription services; or*
- (10) Solid waste management services as defined in KRS 109.012.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

- (1) If a business fails to comply with Section 2 of this Act and it is the business's first violation, the business shall provide a prorated refund for the contract subject to an automatic renewal provision from the start of the most recent term to the date on which the business was notified of and corrects the error.*
- (2) If the business fails to provide a prorated refund as required in subsection (1) of this section or it is a business's second or subsequent violation, the Attorney General may bring an action to obtain:*
 - (a) A temporary or permanent injunction prohibiting the use of any method, act, or practice in violation of Section 2 of this Act;*

- (b) *Restitution for consumers who are residents of this state and incurred a loss of money or property as the direct result of a violation of Section 2 of this Act; and*
- (c) *Penalties that shall not exceed five hundred dollars (\$500) for each violation of Section 2 of this Act.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 5 of this Act shall not apply to contracts entered into prior to the effective date of this Act.

➔Section 6. This Act takes effect on January 1, 2024.

Signed by Governor March 23, 2023.

CHAPTER 82

(SB 281)

AN ACT relating to alternative fuels.

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

➔Section 1. KRS 45A.625 is amended to read as follows:

- (1) The Finance and Administration Cabinet shall ~~implement~~~~develop~~ a strategy to:
 - (a) Replace at least fifty percent (50%) of the state-owned passenger vehicles and light-duty trucks managed by the Office of Fleet Management as of January 1, ~~2026~~~~[2014]~~, with:
 - 1. New qualified hybrid motor vehicles as defined in 26 U.S.C. sec. 30B;
 - 2. New advanced lean burn technology motor vehicles as defined in 26 U.S.C. sec. 30B;
 - 3. New qualified fuel cell motor vehicles as defined in 26 U.S.C. sec. 30B; or
 - 4. New qualified alternative fuel motor vehicles as defined in 26 U.S.C. sec. 30B; and
 - (b) Increase the use of ethanol, cellulosic ethanol, biodiesel, and other alternative transportation fuels as defined in KRS 152.715 to *levels that are commensurate with the increase in vehicles managed by the Office of Fleet Management that are capable of utilizing those alternative transportation fuels*~~[reduce state government's dependence on petroleum-based transportation fuels, where possible]~~.
- (2) On or before December 1, ~~2024~~~~[2013]~~, and every December 1 thereafter, the cabinet shall report to the Legislative Research Commission *on its progress in*:
 - (a) ~~[The strategy for]~~Transitioning to motor vehicles *as* outlined in subsection (1) of this section, including a life-cycle cost comparison, and a projected timetable to replace motor vehicles in the state motor pool as provided in subsection (1) of this section; and
 - (b) *Increasing the*~~[The strategy for increased]~~ use of ethanol, cellulosic ethanol, biodiesel, and alternative transportation fuels, including the targeted amount and the dates by which these targets shall be achieved.

Signed by Governor March 23, 2023.

CHAPTER 83

(HJR 76)

A JOINT RESOLUTION authorizing the release of capital construction funds to the Department of Parks for improvements to Kentucky State Parks.

WHEREAS, the General Assembly recognizes the need to secure the future of Kentucky State Parks for generations to come; and

WHEREAS, 2022 Ky. Acts ch. 199, Part I, L., 4., (6) requires the Department of Parks' comprehensive statewide proposal be approved by the General Assembly in order to release the appropriated capital construction funds; and

WHEREAS, the Department of Parks submitted their comprehensive statewide proposal to the Interim Joint Committee on Appropriations and Revenue;

NOW, THEREFORE,

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

➔Section 1. The General Assembly of the Commonwealth of Kentucky hereby approves a portion of the Department of Parks' statewide proposal dated December 1, 2022, and submitted to the Interim Joint Committee on Appropriations and Revenue. The Office of State Budget Director is authorized to release \$40,000,000 in capital construction funds for campground upgrades, \$20,000,000 in capital construction funds for utility improvements, and \$6,000,000 in capital construction funds for broadband upgrades for high-speed Internet and wireless capabilities for use by the Department of Parks in fiscal year 2023-2024 as appropriated by 2022 Ky. Acts ch. 199, Part II, J., 2., 002.

➔Section 2. With the exception of those items specifically identified in Section 1 of this Act, the General Assembly hereby denies the Department of Parks' comprehensive statewide proposal dated December 1, 2022. The Office of State Budget Director and the Secretary of the Finance and Administration Cabinet shall not release the balance of \$84,000,000 in capital construction funds in fiscal year 2023-2024, as appropriated by 2022 Ky. Acts ch. 199, Part II, J., 2., 002.

Signed by Governor March 23, 2023.

CHAPTER 84

(HB 62)

AN ACT relating to real estate brokerage.

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

➔Section 1. KRS 324.010 is amended to read as follows:

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

- (1) "Real estate brokerage":
 - (a) Means a single, multiple, or continuing act of dealing in time shares or options, selling or offering for sale, buying or offering to buy, negotiating the purchase, sale, or exchange of real estate, engaging in property management, leasing or offering to lease, renting or offering for rent, or referring or offering to refer for the purpose of securing prospects, any real estate or the improvements thereon for others for a fee, compensation, or other valuable consideration; **and**
 - (b) ***Includes advertising for sale an equitable interest in a contract for the purchase of real property between a property owner and a prospective purchaser;***
- (2) "Commission" means the Kentucky Real Estate Commission;
- (3) "Net listing" means a listing agreement that provides for a stipulated net price to the owner and the excess over the stipulated net price to be received by the licensee as the fee compensation or other valuable consideration;
- (4) "Principal broker" means a person licensed as a broker under KRS 324.046 who, in addition to performing acts of real estate brokerage or transactions comprehended by that definition, is the single broker responsible for the operation of the company with which he or she is associated;
- (5) "Real estate" means real estate in its ordinary meaning and includes timeshares, options, leaseholds, and other interests less than leaseholds;

- (6) "Sales associate" means any person licensed in accordance with KRS 324.046(2) that is affiliated with a Kentucky-licensed principal broker and who, when engaging in real estate brokerage, does so under the supervision of the principal broker;
- (7) "Approved real estate school" means:
 - (a) A school that has been given a certificate of approval by the Kentucky Commission on Proprietary Education or other regulatory bodies that exercise jurisdiction over accreditation and approval and the Kentucky Real Estate Commission. The school shall also be currently in good standing with both the Kentucky Commission on Proprietary Education or other regulatory bodies that exercise jurisdiction over accreditation and approval and the commission; or
 - (b) A National Association of Realtors recognized program which has been reviewed by the Kentucky Real Estate Commission and deemed an approved real estate school;
- (8) "Accredited institution" means a college or university accredited by appropriately recognized educational associations or chartered and licensed in Kentucky that grants credits toward a program for either an associate, baccalaureate, graduate, or professional degree;
- (9) "Property management" means the overall management of real property for others for a fee, compensation, or other valuable consideration, and may include the marketing of property, the leasing of property, collecting rental payments on the property, payment of notes, mortgages, and other debts on the property, coordinating maintenance for the property, remitting funds and accounting statements to the owner, and other activities that the commission may determine by administrative regulation;
- (10) "Broker" means any person who is licensed under KRS 324.046(1) and performs acts of real estate brokerage;
- (11) "Designated manager" means a licensed sales associate or broker who manages a main or branch office for the principal broker, at the principal broker's direction, and has managing authority over the activities of the sales associates at that office;
- (12) "Regular employee" means an employee who works for an employer, whose total compensation is subject to withholding of federal and state taxes and FICA payments, and who receives from the employer a fixed salary governed by federal wage guidelines that is not affected by specific real estate transactions;
- (13) "Referral fee" means consideration of any kind paid or demanded for the referral of a potential or actual buyer, seller, lessor, or lessee of real estate;
- (14) "Designated agency" means a form of agency relationship that exists when a principal broker, in accordance with KRS 324.121, identifies different licensees in the same real estate brokerage firm to separately represent more than one (1) party in the same real estate transaction;
- (15) "Affiliation" means the relationship agreed upon between a licensee and a principal broker and reported to the commission, where the licensee places his or her license with the principal broker for supervision of the licensee's real estate brokerage activity;
- (16) "Canceled" means the status of a license when a licensee fails to renew a license, writes the commission a check for fees that is not honored, fails to re-affiliate with a principal broker, or fails to complete requirements for continuing or post-license education;
- (17) "Suspended" means the status of a license when disciplinary action has been ordered against a licensee that prohibits the brokerage of real estate for a specific period of time;
- (18) "Revoked" means the status of a license when disciplinary action has been ordered that removes the licensee's legal authority to broker real estate for a minimum of five (5) years; and
- (19) "Post-license education" means the forty-eight (48) hours of commission-approved education required within two (2) years of receiving or activating an initial sales associate license.

➔Section 2. KRS 324.020 is amended to read as follows:

- (1) It shall be unlawful for any person who is not licensed as a real estate broker or sales associate to:
 - (a) Hold himself or herself out to the public as a real estate broker or sales associate or use any terms, titles, or abbreviations which express, infer, or imply that the person is licensed as a real estate broker or sales associate; *or*

- (b) *Advertise for sale an equitable interest in a contract for the purchase of real property between a property owner and a prospective purchaser.*
- (2) No person shall practice real estate brokerage with respect to real estate located in this state unless:
- (a) The person holds a license to practice real estate brokerage under this chapter; or
- (b) The person has complied with KRS 324.235 to 324.238.
- (3) A licensee who is an owner or a builder-developer shall comply with the provisions of this chapter and the administrative regulations applying to real estate brokers and sales associates.
- (4) No broker shall split fees with or compensate any person who is not licensed to perform any of the acts regulated by this chapter, except that a broker may:
- (a) Pay a referral fee to a broker licensed outside of Kentucky for referring a client to the Kentucky broker;
- (b) Pay a commission or other compensation to a broker licensed outside of Kentucky in compliance with KRS 324.235 to 324.238; or
- (c) Pay a licensed auctioneer for services rendered in cases where an auctioneer and real estate broker collaborate in the conduct of a sale of real estate at auction.
- (5) Except as authorized in KRS 324.112(1) and 324.425, no sales associate shall supervise another licensed sales associate or manage a real estate brokerage office.
- (6) The Kentucky Real Estate Commission may seek and obtain injunctive relief against any individual acting in violation of this chapter by filing a civil action in the Circuit Court where the commission is located or where the unlawful activity took place.

Signed by Governor March 23, 2023.

CHAPTER 85

(HB 248)

AN ACT relating to recovery housing.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act:

- (1) *"Cabinet" means the Cabinet for Health and Family Services;*
- (2) *"Certifying organization" means:*
- (a) *The Kentucky Recovery Housing Network;*
- (b) *The National Alliance for Recovery Residences;*
- (c) *Oxford House, Inc.; and*
- (d) *Any other organization that develops and administers professional certification programs requiring minimum standards for the operation of recovery residences that has been recognized and approved by the Cabinet for Health and Family Services;*
- (3) *"Local government" means a city, county, urban-county government, consolidated local government, charter county government, or unified local government;*
- (4) *"Medication for addiction treatment" means the use of pharmacological agents approved by the United States Food and Drug Administration for the treatment of substance use disorders in combination with counseling and other behavioral health therapies to provide a whole-patient approach to the treatment of substance use disorders;*
- (5) *"Recovery residence" means any premises, place, or building that:*

- (a) *Holds itself out as a recovery residence, recovery home, sober living residence, alcohol, illicit drug, and other intoxicating substance-free home for unrelated individuals, or any other similarly named or identified residence that promotes substance use disorder recovery through abstinence from intoxicating substances;*
 - (b) *Provides a housing arrangement for a group of unrelated individuals who are recovering from substance use disorders or to a group of parents who are recovering from a substance use disorder and their children, including peer-to-peer supervision models; and*
 - (c) *Is not licensed or otherwise approved by the cabinet or any other agency of state government to provide any medical, clinical, behavioral health, or substance use treatment service for which a license or other approval is required under state law; and*
- (6) *"Recovery support services":*
- (a) *Means activities that are directed primarily toward recovery from substance use disorders and includes but is not limited to mutual aid self-help meetings, recovery coaching, spiritual coaching, group support, and assistance in achieving and retaining gainful employment; and*
 - (b) *Does not include any medical, clinical, behavioral health, or other substance use treatment service for which a license or other approval is required under state law.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Effective July 1, 2024, no individual or entity shall, except as provided in subsection (2) of this section, establish, operate, or maintain a recovery residence, recovery home, sober living residence, alcohol, illicit drug, and other intoxicating substance-free home for unrelated individuals, or any other similarly named or identified residence that promotes substance use disorder recovery through abstinence from intoxicating substances or represent, promote, advertise, or otherwise claim to operate a recovery residence, recovery home, sober living residence, alcohol, illicit drug, and other intoxicating substance-free home for unrelated individuals, or any other similarly named or identified residence that promotes substance use disorder recovery through abstinence from intoxicating substances unless that individual or entity has:*
1. *Been certified by a certifying organization; and*
 2. *Provided proof of certification by a certifying organization to the cabinet in a form and manner prescribed by the cabinet.*
- (b) *The provisions of this subsection shall not apply to:*
1. *A recovery residence that is recognized as a part of the Recovery Kentucky Program administered by the Kentucky Housing Corporation; or*
 2. *A recovery residence that is:*
 - a. *Owned or operated by an entity that is exempt, in part or in whole, pursuant to 42 U.S.C. sec. 3607 or 12187 from compliance with the Americans with Disabilities Act, Pub. L. No. 101-336, or the Fair Housing Act, Pub. L. No. 100-430; and*
 - b. *Affiliated with a religious institution that is organized under 26 U.S.C. sec. 501(c) for charitable religious purposes;**unless the recovery residence accepts Medicare or Medicaid funds.*
- (2) *Notwithstanding subsection (1) of this section:*
- (a) *A recovery residence operating without certification from a certifying organization on June 30, 2024, shall be permitted to continue to operate until December 31, 2024, if the recovery residence provides the cabinet with proof that it initiated a certification process with a certifying organization prior to July 1, 2024; and*
 - (b) *A recovery residence that seeks to begin operating after July 1, 2024, may be permitted by the cabinet to operate for a period of not more than six (6) months if the recovery residence provides the cabinet with proof that it has initiated a certification process with a certifying organization.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet shall:*

- (a) *Require certified recovery residences to provide proof of certification at least annually;*
 - (b) *Require certified recovery residences to notify the cabinet of any change in their certification status including but not limited to a suspension or revocation of certification by a certifying organization;*
 - (c) *Require separate proof of certification for each recovery residence owned or operated by an individual or entity in the Commonwealth;*
 - (d) *Post on its website the name, telephone number, and location by local jurisdiction of each certified recovery residence and shall update the list at least quarterly;*
 - (e) *Post on its website the name of each certifying organization approved by the cabinet; and*
 - (f) *Notify local governments with appropriate jurisdiction of receipt of proof of certification from a recovery residence within thirty (30) days of receipt of proof of certification.*
- (2) *The cabinet shall not disclose the address of a recovery residence except to local governments, local law enforcement, and emergency personnel.*
- (3) *The cabinet may:*
- (a) *In lieu of posting the information required by paragraph (d) of subsection (2) of this section to its website, post a link to another website that aggregates information on certified recovery residences or other information providers; and*
 - (b) *Promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the provisions of this section and Section 2 of this Act.*
- (4) *The cabinet and local governments are hereby granted the authority and legal standing necessary to initiate appropriate legal action to compel a recovery residence that is operating in violation of Section 2 of this Act to cease operating.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

- (1) *A recovery residence shall:*
- (a) *Clearly disclose the following by inclusion in any advertising and by posting such a notice in a conspicuous location inside the residence:*
 - 1. *Notice that the recovery residence is not a treatment facility;*
 - 2. *A list of services offered by the recovery residence; and*
 - 3. *If the recovery residence is exempt from certification pursuant to subsection (1)(b) of Section 2 of this Act, notice that the recovery residence is exempt from certification requirements;*
 - (b) *Require residents to abstain from the use of alcohol, illicit drugs, and other intoxicating substances;*
 - (c) *Require residents to participate in recovery support services including through a peer-to-peer supervision model; and*
 - (d) *Allow individuals who are receiving medication for addiction treatment to continue to receive such treatment while residing in the recovery residence as directed by a licensed prescriber.*
- (2) *A recovery residence shall not, except as permitted under paragraph (b) of subsection (3) of this section, directly provide any medical or clinical services including on-site medication administration.*
- (3) (a) *The requirement that residents abstain from the use of intoxicating substances established in subsection (1)(b) of this section shall not apply to any legally prescribed medication when used by a resident as directed by a licensed prescriber.*
- (b) *Subsection (1)(d) of this section shall not apply to any recovery residence owned or operated by an entity that is exempted, in part or in whole, pursuant to 42 U.S.C. sec. 3607 or 12187 from compliance with the Americans with Disabilities Act, Pub. L. No. 101-336, or the Fair Housing Act, Pub. L. No. 100-430.*
- (c) *The prohibition on the provision of medical and clinical services established in subsection (2) of this section shall not apply to:*
- 1. *The self-administration of prescribed medications by a resident as directed by a licensed prescriber within his or her scope of practice;*

2. *Verification of abstinence from the use of alcohol, illicit drugs, and other intoxicating substances; or*
3. *The provision of medical and clinical services, including telehealth services and other in-residence services, to an individual residing in a recovery residence by a licensed medical or behavioral health provider provided that:*
 - a. *The licensed provider is not employed or contracted by the recovery residence;*
 - b. *The recovery residence has not required or otherwise induced a resident to receive services from a specific provider; and*
 - c. *The licensed provider and the recovery residence shall each, as applicable, comply with 18 U.S.C. sec. 220, 42 U.S.C. sec. 1320a-7b(b), and 42 U.S.C. sec. 1395nn and any amendments thereto.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

After June 30, 2024:

- (1) *When referring an individual who is in need of recovery residency services, the following individuals and entities shall only refer individuals to a recovery residence that has provided the cabinet with proof of certification by a certifying organization as required by subsection (1) of Section 2 of this Act or that is recognized as part of the Recovery Kentucky Program administered by the Kentucky Housing Corporation:*
 - (a) *State agencies;*
 - (b) *State-contracted vendors;*
 - (c) *Political subdivisions of the state;*
 - (d) *Health care providers who are licensed in the Commonwealth; and*
 - (e) *Behavioral health providers who are licensed in the Commonwealth.*
- (2) *When making orders or recommendations that an individual under its supervision receive recovery residency services, any court of the Commonwealth shall give first consideration to recovery residences that have provided the cabinet with proof of certification by a certifying organization as required by subsection (1) of Section 2 of this Act or that are recognized as part of the Recovery Kentucky Program administered by the Kentucky Housing Corporation.*
- (3) *Only recovery residences that have provided the cabinet with proof of certification by a certifying agency as required by subsection (1) of Section 2 of this Act or that are recognized as part of the Recovery Kentucky Program administered by the Kentucky Housing Corporation shall be eligible to receive state funding and, to the extent permitted under federal law, federal funding for the delivery of recovery residency services in the Commonwealth.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 6 of this Act shall be interpreted or construed to alter, amend, or otherwise infringe upon a local government's authority to regulate the use of property through properly enacted land use laws pursuant to KRS Chapter 100, rental property regulations, or any other local government authority provided under the law.

➔Section 7. The Department for Medicaid Services shall, no later than January 1, 2024, take all reasonable steps necessary, which may include preparation and submission of a Medicaid state plan amendment or waiver application, to pursue approval from the federal Centers for Medicare and Medicaid Services to provide Medicaid coverage and reimbursement for substance use disorder recovery services provided by a certified recovery residence.

Signed by Governor March 24, 2023.

CHAPTER 86

(HB 148)

AN ACT relating to the assignment of substance abuse or mental health treatment benefits.

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

➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Health insurance policy":*

1. *Includes any health insurance policy, certificate, plan, or contract or managed care plan, as defined in KRS 304.17A-500, regardless of whether the policy, certificate, plan, or contract was issued or delivered in this state; and*
2. *Does not include Medicare or Medicaid benefits;*

(b) *"Insurer":*

1. *Means any domestic, foreign, or alien insurer, self-insurer, self-insured plan, or self-insured group; and*
2. *Includes any domestic, foreign, or alien:*
 - a. *Health maintenance organization;*
 - b. *Limited health service organization;*
 - c. *Provider-sponsored integrated health delivery network; and*
 - d. *Nonprofit hospital, medical-surgical, dental, and health service corporation; and*

(c) *"Substance abuse or mental health facility" means a structurally distinct public or private health care establishment, institution, or facility located and licensed in this state that is primarily constituted, staffed, and equipped to deliver substance abuse or mental health treatment services, or both substance abuse and mental health treatment services, to the general public.*

(2) *To the extent permitted under federal law, an insurer or its agent:*

(a) *Shall not prohibit or restrict, except as provided in paragraph (b) of this subsection, an insured under a health insurance policy from making a written assignment of any substance abuse or mental health treatment benefits available under the policy to a substance abuse or mental health facility; and*

(b) *May require a substance abuse or mental health facility that receives a written assignment of benefits from an insured to:*

1. *Provide the following information to the insured prior to performing a health care service associated with the benefits:*
 - a. *A statement informing the insured that the facility, as applicable:*
 - i. *Is an out-of-network provider;*
 - ii. *May charge the insured for services not covered under the health insurance policy; and*
 - iii. *May charge the insured the balance of any bill for services that are covered under the health insurance policy;*
 - b. *A schedule of all applicable charges for the services that the facility may provide to the insured;*
 - c. *Any terms of payment that may apply to the insured; and*
 - d. *Whether interest will apply to, and the amount of interest that will be charged against, any payment owed by the insured to the facility;*
2. *Submit claims associated with the benefits within ninety (90) days of the date of service;*
3. *Maintain records of claims associated with the benefits;*
4. *Respond to any inquiry regarding the benefits from an investigative unit established under KRS 304.47-080 or other similar unit; and*

5. *Make a good-faith effort to abide by the standards of care set forth by the following, as applicable:*
 - a. *The American Society of Addiction Medicine;*
 - b. *The American Association for Community Psychiatry's Level of Care Utilization System (LOCUS); or*
 - c. *The American Association for Community Psychiatry's and the American Academy of Child and Adolescent Psychiatry's Child and Adolescent Level of Care/Service Intensity Utilization System (CALOCUS-CASII).*
- (3) *For an assignment of benefits made in accordance with this section:*
 - (a) *The assignment shall:*
 1. *Be valid as of the effective date contained in the assignment; and*
 2. *Remain in effect until the earlier of the following:*
 - a. *The date the insured is discharged from the care of the substance abuse or mental health facility; or*
 - b. *The date the substance abuse or mental health facility receives written notice of the insured's termination of the assignment; and*
 - (b) *Upon notice of the assignment, the insurer shall make payments directly to the substance abuse or mental health facility for all services rendered by the facility to the insured for the duration of the assignment.*
- (4) *This section shall not be construed to:*
 - (a) *Provide a coverage or benefit that is not otherwise available under the health insurance policy;*
 - (b) *Prohibit an insurer from enforcing any terms or conditions of the health insurance policy that are not in conflict with this section;*
 - (c) *Relieve an insured from the contractual obligation to pay deductibles, copayments, or coinsurance;*
 - (d) *Permit a substance abuse or mental health facility to waive deductibles, copayments, or coinsurance by the notice of assignment; or*
 - (e) *Violate:*
 1. *29 U.S.C. sec. 1185a, as amended; or*
 2. *KRS 304.17A-660 to 304.17A-669.*

➔Section 2. KRS 304.14-250 is amended to read as follows:

Except as provided in Section 1 of this Act:

- (1) A policy may be assignable or not assignable, as provided by its terms;~~[-]~~
- (2) Subject to its terms relating to assignability, a life or health insurance policy, ***regardless of when it was***~~whether heretofore or hereafter~~ issued, under the terms of which the beneficiary may be changed upon the sole request of the insured or owner, may be assigned either by pledge or transfer of title, by an assignment executed by the insured or owner alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer;~~[-]~~
- (3) Any assignment of a policy which is otherwise lawful and of which the insurer has received notice~~[-]~~ shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment, until the insurer has received at its principal office written notice of the termination of the assignment or pledge~~[-]~~ or written notice by or on behalf of some interest in the policy in conflict with the assignment; ***and***~~[-]~~
- (4) (a) Any individual insured under a group insurance policy or group annuity contract shall have the right, unless expressly prohibited under the terms of the policy or contract, to assign to any other person his rights and benefits under the policy or contract, including~~[-]~~ but not limited to~~[-]~~ the right to designate the beneficiary or beneficiaries and the rights as to conversion provided for in KRS 304.16-180 to 304.16-200, inclusive.

- (b) While the assignment is in effect, and **regardless of when it was** ~~[whether heretofore or hereafter]~~ made, the insurer shall be entitled to deal with the assignee as the owner of **the** ~~[such]~~ rights and benefits in accordance with the terms of the assignment **and** ~~[but]~~ without prejudice to the insurer on account of any lawful action taken or payment made by **the insurer** ~~[it]~~ prior to receipt by **the insurer** ~~[it]~~ at its principal office **of** ~~[or]~~ written notice of the assignment or of the termination thereof.
- (c) This **subsection** ~~[section]~~ acknowledges, confirms, and codifies the existing right of assignment of interests under group life insurance policies.

➔Section 3. KRS 304.17-130 is amended to read as follows:

- (1) There shall be a provision as follows:

"Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting payment which may be prescribed herein and effective at the time of payment. If no designation or provision is then effective, any indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to a beneficiary or to the estate. All other indemnities will be payable to the insured."

- (2) **Except as provided in Section 1 of this Act**, the following provisions, or either of them, may be included with the ~~[foregoing]~~ provision **required under subsection (1) of this section** at the option of the insurer:

- (a) "If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$... (insert an amount which shall not exceed \$5,000), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of the payment."; **and**
- (b) "Subject to any written direction of the insured in the application or otherwise, all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of the loss, be paid directly to the hospital or person rendering services, ~~[]~~ but it is not required that the service be rendered by a particular hospital or person."

➔Section 4. KRS 304.18-090 is amended to read as follows:

Except as provided in Section 1 of this Act:

- (1) **Subject to** ~~[Except as provided in]~~ subsection (2) of this section, all benefits under any blanket health **insurance** policy or contract shall be payable to the person insured, or to **the person's** ~~[his]~~ designated beneficiary or beneficiaries, or to **the person's** ~~[his]~~ estate, except that if the person insured is a minor or otherwise not competent to give a valid release, **the** ~~[such]~~ benefits may be made payable to **the person's** ~~[his]~~ parent, guardian, conservator, or other person actually supporting **the minor or person not competent to give a valid release; and** ~~[him.]~~
- (2) (a) **A blanket health insurance policy or contract** ~~[The policy]~~ may provide that all or a portion of any indemnities provided by **the** ~~[any such]~~ policy **or contract** on account of hospital, nursing, medical, or surgical services may, at the option of the insurer and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services, ~~[]~~ but the policy **or contract** may not require that the service be rendered by a particular hospital or person.
- (b) Payment ~~[so]~~ made **directly to a hospital or other person for all or a portion of any indemnities provided by a blanket health insurance policy or contract** shall discharge the obligation of the insurer with respect to the amount of insurance so paid.

➔SECTION 5. A NEW SECTION OF SUBTITLE 38A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Limited health service organizations shall comply with Section 1 of this Act.

➔Section 6. KRS 18A.225 is amended to read as follows:

- (1) (a) The term "employee" for purposes of this section means:

1. Any person, including an elected public official, who is regularly employed by any department, office, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, County Employees Retirement System, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567; or is eligible to participate in a retirement plan established by an employer who ceases participating in the Kentucky Employees Retirement System pursuant to KRS 61.522 whose employees participated in the health insurance plans administered by the Personnel Cabinet prior to the employer's effective cessation date in the Kentucky Employees Retirement System;
 2. Any certified or classified employee of a local board of education or a public charter school as defined in KRS 160.1590;
 3. Any elected member of a local board of education;
 4. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, County Employees Retirement System, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, the Judicial Retirement Plan, or the Kentucky Community and Technical College System's optional retirement plan authorized by KRS 161.567, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(2)(b)3. and 78.5536(2)(b)3., unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and
 5. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program;
- (b) The term "health benefit plan" for the purposes of this section means a health benefit plan as defined in KRS 304.17A-005;
 - (c) The term "insurer" for the purposes of this section means an insurer as defined in KRS 304.17A-005; and
 - (d) The term "managed care plan" for the purposes of this section means a managed care plan as defined in KRS 304.17A-500.
- (2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more insurers authorized to do business in this state, a group health benefit plan that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection (13) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.

- (b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions the commissioner of insurance approves, whether or not otherwise permitted by the insurance laws.
 - (c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Except as provided in subsection (20) of this section, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program and as otherwise provided in KRS 61.702(2)(b)3.b. and 78.5536(2)(b)3.b.
 - (d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.
 - (e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorily required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including but not limited to loss ratios, reserves, and reinsurance agreements.
 - (f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.
 - (g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account.
 - (h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.
- (3) The premiums may be paid by the policyholder:
- (a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;
 - (b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or
 - (c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.
- (4) If an employee moves his or her place of residence or employment out of the service area of an insurer offering a managed health care plan, under which he or she has elected coverage, into either the service area of another managed health care plan or into an area of the Commonwealth not within a managed health care plan

service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health benefit plan.

- (5) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.
- (6) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.
- (7) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he or she has been determined to be eligible for federal Social Security disability benefits.
- (8) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.
- (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or the secretary's designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, two (2) members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.
- (10) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.
- (11) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.
- (12) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.
- (13)
 - (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.
 - (b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.
 - (c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.

- (14) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months pursuant to KRS 304.17A-132.
- (15) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for the diagnosis and treatment of autism spectrum disorders consistent with KRS 304.17A-142.
- (16) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining amino acid-based elemental formula pursuant to KRS 304.17A-258.
- (17) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
- (18) If a state employee's residence and place of employment are each located in counties in which the hospitals do not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a county contiguous to the county of residence that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
- (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.
- (20) Notwithstanding any other provision of this section, the bid for proposals for health insurance coverage for calendar year 2004 shall include a bid scenario that reflects the statewide rating structure provided in calendar year 2003 and a bid scenario that allows for a regional rating structure that allows carriers to submit bids that may vary by region for a given product offering as described in this subsection:
 - (a) The regional rating bid scenario shall not include a request for bid on a statewide option;
 - (b) The Personnel Cabinet shall divide the state into geographical regions which shall be the same as the partnership regions designated by the Department for Medicaid Services for purposes of the Kentucky Health Care Partnership Program established pursuant to 907 KAR 1:705;
 - (c) The request for proposal shall require a carrier's bid to include every county within the region or regions for which the bid is submitted and include but not be restricted to a preferred provider organization (PPO) option;
 - (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the carrier all of the counties included in its bid within the region. If the Personnel Cabinet deems the bids submitted in accordance with this subsection to be in the best interests of state employees in a region, the cabinet may award the contract for that region to no more than two (2) carriers; and
 - (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including other requirements or criteria in the request for proposal.
- (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July 12, 2006, to public employees pursuant to this section which provides coverage for services rendered by a physician or osteopath duly licensed under KRS Chapter 311 that are within the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter 320 shall provide the same payment of coverage to optometrists as allowed for those services rendered by physicians or osteopaths.
- (22) Any fully insured health benefit plan or self-insured plan issued or renewed to public employees pursuant to this section shall comply with:
 - (a) KRS 304.12-237;
 - (b) KRS 304.17A-270 and 304.17A-525;
 - (c) KRS 304.17A-600 to 304.17A-633;
 - (d) KRS 205.593;
 - (e) KRS 304.17A-700 to 304.17A-730;

- (f) KRS 304.14-135;
- (g) KRS 304.17A-580 and 304.17A-641;
- (h) KRS 304.99-123;
- (i) KRS 304.17A-138;
- (j) KRS 304.17A-148;
- (k) KRS 304.17A-163 and 304.17A-1631;~~and~~
- (l) ***Section 1 of this Act; and***
- (m) Administrative regulations promulgated pursuant to statutes listed in this subsection.

➔Section 7. KRS 164.2871 is amended to read as follows:

- (1) The governing board of each state postsecondary educational institution is authorized to purchase liability insurance for the protection of the individual members of the governing board, faculty, and staff of such institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of such institution.
- (2) All retirement annuity allowances accrued or accruing to any employee of a state postsecondary educational institution through a retirement program sponsored by the state postsecondary educational institution are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any employee of a state postsecondary educational institution through a retirement program sponsored by the state postsecondary educational institution on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.
- (3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards, faculty and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.
- (4) The governing board of each state postsecondary education institution is authorized to provide a self-insured employer group health plan to its employees, which plan shall:
 - (a) Conform to the requirements of Subtitle 32 of KRS Chapter 304; and
 - (b) Except as provided in subsection (5) of this section, be exempt from conformity with Subtitle 17A of KRS Chapter 304.
- (5) A self-insured employer group health plan provided by the governing board of a state postsecondary education institution to its employees shall comply with:
 - (a) KRS 304.17A-163 and 304.17A-1631; ***and***
 - (b) ***Section 1 of this Act.***

➔Section 8. This Act shall apply to:

- (1) Health insurance policies in effect on or after the effective date of this Act; and
- (2) Health insurance policies issued, delivered, or renewed on or after the effective date of this Act.

Signed by Governor March 24, 2023.

CHAPTER 87

(HB 369)

AN ACT relating to expungement.

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

➔Section 1. KRS 431.073 is amended to read as follows:

- (1) Any person who has been:
- (a) Convicted of a Class D felony violation of KRS 17.175, 186.990, 194A.505, 194B.505, 217.181, 217.207, 217.208, 218A.140, 218A.1415, 218A.1416, 218A.1417, 218A.1418, 218A.1423, 218A.1439, 218A.282, 218A.284, 218A.286, 218A.320, 218A.322, 218A.324, 218A.500, 244.165, 286.11-057, 304.47-025, 324.990, 365.241, 434.155, 434.675, 434.850, 434.872, 511.040, 512.020, 514.030, 514.040, 514.050, 514.060, 514.065, 514.070, 514.080, 514.090, 514.100, 514.110, 514.120, 514.140, 514.150, 514.160, 516.030, 516.060, 516.090, 516.108, 517.120, 518.040, 522.040, 524.100, 525.113, 526.020, 526.030, 528.020, 528.040, 528.050, 530.010, or 530.050;
 - (b) Convicted of a series of Class D felony violations of one (1) or more statutes enumerated in paragraph (a) of this subsection arising from a single incident;
 - (c) Granted a full pardon; or
 - (d) Convicted of a Class D felony, or an offense prior to January 1, 1975 which was punishable by not more than five (5) years' incarceration, which was not a violation of KRS 189A.010, 508.032, or 519.055, abuse of public office, a sex offense, or an offense committed against a child, and did not result in serious bodily injury or death; or of ~~multiple~~ ~~[a series of]~~ felony offenses eligible under this paragraph;
- may file with the court in which he or she was convicted an application to have the judgment vacated. The application shall be filed as a motion in the original criminal case. The person shall be informed of the right at the time of adjudication.
- (2) (a) A verified application to have the judgment vacated under this section shall be filed no sooner than five (5) years after the completion of the person's sentence, or five (5) years after the successful completion of the person's probation or parole, whichever occurs later.
- (b) Upon the payment of the filing fee and the filing of the application, the Circuit Court clerk shall serve a notice of filing upon the office of the Commonwealth's attorney or county attorney that prosecuted the case and the county attorney of the county where the judgment was entered. The office of the Commonwealth's attorney or county attorney that prosecuted the case shall file a response within sixty (60) days after being served with the notice of filing. That time period may be extended for good cause, but the hearing on the application to vacate the judgment shall occur no later than one hundred twenty (120) days following the filing of the application. The inability to determine the location of the crime victim shall constitute good cause for an extension of time. No hearing upon the merits of the application shall be scheduled until the Commonwealth's response has been filed, or if no response is received, no later than one hundred twenty (120) days after the filing of the application.
- (c) In any case in which the Commonwealth objects that the application is grossly incomplete, the court shall order the person or agency originating the application to supplement the application.
- (3) Upon the filing of the Commonwealth's response to an application, or if no response is received, no later than one hundred twenty (120) days after the filing of the application, the court shall set a date for a hearing and the Circuit Court clerk shall notify the office of the Commonwealth's attorney or county attorney that prosecuted the case. The office of the Commonwealth's attorney or county attorney that prosecuted the case shall notify the victim of the crime, if there was an identified victim. The Commonwealth's attorney or county attorney shall be authorized to obtain without payment of any fee information from the Transportation Cabinet regarding the crime victim's address on file regarding any vehicle operator's license issued to that person.
- (4) (a) In an application pursuant to subsection (1)(d) of this section, upon the filing of the Commonwealth's response objecting to the vacating of a judgment and expungement of a record, the court shall schedule a hearing within one hundred twenty (120) days of the Commonwealth's response. The prosecutor shall specify in the objection the reasons for believing a denial of the application is justified. At the hearing at which the applicant or his or her attorney must be present, the applicant must prove by clear and convincing evidence that:
1. Vacating the judgment and expunging the record is consistent with the welfare and safety of the public;

2. The action is supported by his or her behavior since the conviction or convictions, as evidenced that he or she has been active in rehabilitative activities in prison and is living a law-abiding life since release;
 3. The vacation and expungement is warranted by the interests of justice; and
 4. Any other matter deemed appropriate or necessary by the court to make a determination regarding the petition for expungement is met.
- (b) At the hearing, the applicant may testify as to the specific adverse consequences he or she may be subject to if the application is denied. The court may hear testimony of witnesses and any other matter the court deems proper and relevant to its determination regarding the application. The Commonwealth may present proof of any extraordinary circumstances that exist to deny the application. A victim of any offense listed in the application shall have an opportunity to be heard at any hearing held under this section.
- (c) If the court determines that circumstances warrant vacation and expungement and that the harm otherwise resulting to the applicant clearly outweighs the public interest in the criminal history record information being publicly available, then the original conviction or convictions shall be vacated and the records shall be expunged. The order of expungement shall not preclude a prosecutor's office from retaining a nonpublic record for law enforcement purposes only.
- (5) The court may order the judgment vacated, and if the judgment is vacated the court shall dismiss with prejudice any charges which are eligible for expungement under subsection (1) of this section or KRS 431.076 or 431.078, and, upon full payment of the fee in subsection (11) of this section, order expunged all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if the court finds that:
- (a) ~~{The person had not, after June 27, 2019, had a felony conviction vacated and the record expunged pursuant to this section;~~
 - ~~(b) —~~ {The person had not in the five (5) years prior to the filing of the application to have the judgment vacated been convicted of a felony or a misdemeanor;
 - ~~(b){(c)}~~ No proceeding concerning a felony or misdemeanor is pending or being instituted against the person; and
 - ~~(c){(d)}~~ For an application pursuant to subsection (1)(d) of this section, the person has been rehabilitated and poses no significant threat of recidivism.
- (6) If the court has received a response from the office of the Commonwealth's attorney or county attorney that prosecuted the case stating no objection to the application to have the judgment vacated, or if one hundred twenty (120) days have elapsed since the filing of the application and no response has been received from the victim or the office of the Commonwealth's attorney or county attorney that prosecuted the case, the court may, without a hearing, vacate the judgment in the manner established in subsection (5) of this section.
- (7) Upon entry of an order vacating and expunging a conviction, the original conviction shall be vacated and, upon full payment of the fee in subsection (11) of this section, the record shall be expunged. The court and other agencies shall cause records to be deleted or removed from their computer systems so that the matter shall not appear on official state-performed background checks. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. If the person is not prohibited from voting for any other reason, the person's ability to vote shall be restored and the person may register to vote.
- (8) An order vacating a conviction under this section shall not extend or revive an expired statute of limitations, shall not constitute a finding of legal error regarding the proceedings leading to or resulting in the conviction, shall not nullify any findings of fact or conclusions of law made by the trial court or any appellate court regarding the conviction, and shall not constitute a finding of innocence regarding the conviction.
- (9) The Administrative Office of the Courts shall establish a form application to be used in filing an application to have judgment vacated and records expunged.
- (10) The filing fee for an application to have judgment vacated and records expunged shall be fifty dollars (\$50), which shall be deposited into a trust and agency account for deputy clerks and shall not be refundable.

- (11) (a) Upon the issuance of an order vacating and expunging a conviction pursuant to this section, the applicant shall be charged an expungement fee of two hundred fifty dollars (\$250), which may be payable by an installment plan in accordance with KRS 534.020.
- (b) When the order is issued, the court shall set a date, no sooner than eighteen (18) months after the date of the order, by which the defendant must comply with the installment payment plan. The applicant shall be given notice of the total amount due, the payment frequency, and the date by which all payments must be made. The notice shall state that the expungement cannot be completed until full payment is received, and that if the applicant has not completed the installment payment plan by the scheduled date, he or she shall appear on that date to show good cause as to why he or she is unable to satisfy the obligations. Notwithstanding provisions of KRS 534.020 to the contrary, no applicant shall be ordered to jail for failure to complete an installment plan ordered pursuant to this section.
- (c) The revenues and interest from the expungement fee shall be deposited in the expungement fund created in KRS 431.0795.

(12) This section shall be retroactive.

➔Section 2. KRS 610.330 is amended to read as follows:

- (1) (a) Any child who has been adjudicated as coming within the purview of KRS Chapter 630, 635, or 645, but not KRS Chapter 620 or 640, may petition the court for the expungement of offenses from his or her juvenile court record. He or she shall be informed of such right at the time of adjudication.
- (b) The court on its own motion, or on the motion of a probation officer of the court, a representative of the Department of Juvenile Justice or the cabinet, or any other interested person, may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court.
- (c) Expungement shall not be granted if:
1. There are any proceedings pending or being instituted against the child;
 2. The offense is a sex crime, as defined in KRS 17.500; or
 3. The offense would classify a person as a violent offender under KRS 439.3401.
- (2) A petition may seek the expungement from the juvenile court record of ***any status offenses, or any public offenses which would be felonies, misdemeanors, or violations if committed by an adult***;
- ~~(a) Misdemeanors, violations, or status offenses;~~
- ~~(b) A single felony; or~~
- ~~(c) A series of felonies arising from a single incident.~~
- (3) The petition shall be filed or the court order entered no sooner than two (2) years after the date of termination of the court's jurisdiction over the person, or two (2) years after his or her unconditional release from commitment to the Department of Juvenile Justice or the Cabinet for Health and Family Services or a public or private agency, except that the two (2) year period may be waived if the court finds that such extraordinary circumstances exist with regard to the petitioner as to make the waiver advisable.
- (4) Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall notify the county attorney and anyone else whom the court or the child, his or her parents, relatives, guardian, or custodian has reason to believe may have relevant information related to the expungement of the record.
- (5) The court may order the adjudication vacated and all records expunged in the petitioner's case in the custody of the court and any of these records in the custody of any other agency or official, including law enforcement and public or private elementary and secondary school records, unless at the hearing the county attorney establishes that the child or offense is ineligible for expungement under subsections (1) to (4) of this section.
- (6) Upon the entry of an order to expunge the records, the proceedings in the case shall be deemed never to have occurred and all index references shall be deleted and the person and court may properly reply that no record exists with respect to such person upon any inquiry in the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.

- (7) If a court dismisses a petition against a child or finds a child not delinquent in a juvenile proceeding, the court shall concurrently order the record of the proceeding expunged. The order expunging the proceedings shall not require any action by the child.
- (8) Copies of the order shall be sent to each agency or official named therein.
- (9) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of such records, and only to those persons named in such petition.

Signed by Governor March 24, 2023.

CHAPTER 88

(HB 394)

AN ACT relating to professional employer organizations.

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

➔Section 1. KRS 336.236 is amended to read as follows:

- (1) A person engaged in providing professional employer services pursuant to a co-employment relationship in which all or a majority of the employees of a client are covered employees shall be registered under KRS 336.230 to 336.250 no later than July 15, 2024. After July 15, 2024, a person who is not registered under KRS 336.230 to 336.250 shall not offer or provide professional employer services in this Commonwealth and shall not use the names professional employer organization, PEO, staff leasing company, employee leasing company, administrative employer, or any other name or title representing professional employer services.
- (2) Each applicant for registration under KRS 336.230 to 336.250 shall provide the Department of Workers' Claims with the following:
 - (a) The name or names under which the professional employer organization conducts business;
 - (b) The address of the principal place of business of the professional employer organization and the address of each office it maintains in this Commonwealth;
 - (c) The professional employer organization's taxpayer identification number or federal and state employer identification number;
 - (d) A list, by jurisdiction, of each name under which the professional employer organization has operated in the preceding five (5) years, including any alternative names, names of predecessors, and, if known, successor business entities;
 - (e) A statement of ownership, which shall include the name and evidence of the business experience of any person that, individually or acting in concert with one (1) or more other persons, owns or controls, directly or indirectly, twenty-five percent (25%) or more of the equity interest in the professional employer organization; and
 - (f)
 1. A financial statement setting forth the financial condition of the professional employer organization or professional employer organization group.
 2. At the time of the initial application for a new registration, the applicant shall submit the most recent audit of the applicant, which shall not be older than thirteen (13) months. Thereafter, a professional employer organization or professional employer organization group shall file a succeeding audit on an annual basis within one hundred eighty (180) days after the end of the fiscal year.
 3. An applicant may apply for an extension with the Department of Workers' Claims, but any extension request shall be accompanied by a letter from the auditors stating the reasons for the delay and the anticipated date for completion of the audit.
 4. The financial statement shall be prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant licensed to practice in the

jurisdiction in which the accountant is located, and shall be without qualification as to the going concern status of the professional employer organization.

5. A professional employer organization group may submit combined or consolidated audited financial statements to meet the requirements of this paragraph.
 6. A professional employer organization that has not had sufficient operating history to have audited financial statements based on at least twelve (12) months of operating history shall meet the requirements in KRS 336.240 and present financial statements reviewed by a certified public accountant.
 7. ***A professional employer organization shall meet the requirements of this paragraph if the financial statement submitted by the professional employer organization with its initial registration is without qualification as to the going concern status of the professional employer organization. If the professional employer organization has not had sufficient operating history as set forth in subparagraph 6. of this paragraph, the professional employer organization shall meet the requirements of Section 3 of this Act in order to satisfy the requirements of this paragraph.***
- (3) Each professional employer organization operating within this Commonwealth as of July 14, 2022, shall complete its initial registration no later than July 15, 2024. The initial registration shall be valid until the end of the professional employer organization's first fiscal year that is more than one (1) fiscal year after July 15, 2024. ***This subsection shall apply to any professional employer organization that completed its initial registration at any time prior to July 15, 2024.***
 - (4) Each professional employer organization not operating within this Commonwealth as of July 14, 2022, shall complete its initial registration prior to initiating operations within this Commonwealth. If a professional employer organization not operating within this Commonwealth becomes aware that an existing client that is not based in this Commonwealth had employees and operations in this Commonwealth, the professional employer organization shall either decline to provide professional employer services for those employees or notify the Department of Workers' Claims within five (5) business days of its knowledge of this fact and file a limited registration application or file a full business registration if there are more than fifty (50) covered employees. The Department of Workers' Claims may issue an interim operating permit for the period the registration applications are pending if the professional employer organization is currently registered or licensed by another state and the Department of Workers' Claims determines it to be in the best interests of the potential covered employees.
 - (5) ***Except as provided within subsection (3) of this section,*** within one hundred eighty (180) days after the end of the fiscal year, a registrant shall renew its registration by notifying the Department of Workers' Claims of any changes in the information provided in the registrant's most recent registration or renewal. ***Each renewal registration shall contain a financial statement demonstrating the registrant has met the requirements of Section 3 of this Act.*** A registrant's existing registration shall remain in effect during the pendency of a renewal application.
 - (6) Professional employer organizations in a professional employer organization group may satisfy the reporting and financial requirements of KRS 336.230 to 336.250 on a combined or consolidated basis provided that each member of the professional employer organization group guarantees the financial capacity obligations under KRS 336.230 to 336.250 of each other member of the professional employer organization group. In the case of a professional employer organization group that submits a combined or consolidated audited financial statement that includes entities that are not professional employer organizations or that are not in the professional employer organization group, the controlling entity of the professional employer organization group under the consolidated or combined statement shall guarantee the obligations of the professional employer organizations in the professional employer organization group.
 - (7) (a) A professional employer organization is eligible for a limited registration under KRS 336.230 to 336.250 if the professional employer organization:
 1. Submits a properly executed request for limited registration on a form provided by the Department of Workers' Claims;
 2. Is domiciled outside this Commonwealth and is licensed or registered as a professional employer organization in another state;

3. Does not maintain an office in this Commonwealth or directly solicit clients located or domiciled within this Commonwealth; or
 4. Does not have more than fifty (50) covered employees domiciled or employed in this Commonwealth on any given day.
- (b) A limited registration is valid for one (1) year and may be renewed.
 - (c) A professional employer organization seeking limited registration under this subsection shall provide the Department of Workers' Claims with information and documentation necessary to show that the professional employer organization qualifies for a limited registration.
 - (d) KRS 336.240 does not apply to applicants for limited registration.
- (8) The Department of Workers' Claims shall maintain a list of professional employer organizations registered pursuant to KRS 336.230 to 336.250 that is readily available to the public by electronic or other means.
 - (9) The Department of Workers' Claims shall to the extent practical permit by administrative regulation the acceptance of electronic filings, including applications, documents, reports, and other filings required under KRS 336.230 to 336.250. The Department of Workers' Claims may provide for the acceptance of electronic filings and other assurance by an independent and qualified assurance organization approved by the secretary that provides satisfactory assurance of compliance acceptable to the Department of Workers' Claims consistent with or in lieu of the requirements of this section and KRS 336.240, and other requirements of KRS 336.230 to 336.250. The secretary shall permit a professional employer organization to authorize an approved assurance organization to act on behalf of the professional employer organization in complying with the registration requirements of KRS 336.230 to 336.250, including electronic filings of information and payment of registration fees. Use of an approved assurance organization shall be optional for a registrant. Nothing in this subsection shall limit or change the Department of Workers' Claims' authority to register or terminate registration of a professional employer organization or to investigate or enforce any provision of KRS 336.230 to 336.250.
 - (10) All records, reports, and other information obtained from a professional employer organization under KRS 336.230 to 336.250, except to the extent necessary for the proper administration of KRS 336.230 to 336.250 by the Department of Workers' Claims, shall be confidential and shall not be published or open to public inspection other than to public employees in the performance of their public duties.
 - (11) The Department of Workers' Claims may promulgate administrative regulations and prescribe forms necessary to promote the efficient administration of this section.
- ➔Section 2. KRS 336.238 is amended to read as follows:
- (1) Upon filing an initial registration statement pursuant to KRS 336.230 to 336.250, a professional employer organization *or professional employer organization group* shall pay an initial registration fee not to exceed five hundred dollars (\$500) to the Department of Workers' Claims.
 - (2) Upon each annual renewal of a registration statement filed under KRS 336.230 to 336.250, a professional employer organization *or professional employer organization group* shall pay a renewal fee not to exceed two hundred fifty dollars (\$250) to the Department of Workers' Claims.
 - (3) Each professional employer organization *or professional employer organization group* seeking limited registration under KRS 336.236 shall pay a fee in the amount not to exceed two hundred fifty dollars (\$250) to the Department of Workers' Claims upon initial application for the limited registration and upon each annual renewal of limited registration.

➔Section 3. KRS 336.240 is amended to read as follows:

Except as provided in KRS 336.236, each professional employer organization or collectively each professional employer organization group shall either:

- (1) Maintain positive working capital as indicated by current assets minus current liabilities and defined by generally accepted accounting principles at registration as reflected in the financial statements submitted to the Department of Workers' Claims with the initial registration *or with each annual renewal registration*; or
- (2) Provide a bond, irrevocable letter of credit, or securities with a minimum market value equaling the deficiency plus one hundred thousand dollars (\$100,000) to the Department of Workers' Claims if the professional employer organization or professional employer organization group does not have positive working capital. The bond shall be held by a depository designated by the Department of Workers' Claims, securing payment

by the professional employer organization of all taxes, wages, benefits, or other entitlement due to or with respect to covered employees should the professional employer organization fail to make payments when due.

➔ Section 4. KRS 336.248 is amended to read as follows:

For the purposes of KRS Chapter 341:

- (1) *The professional employer organization shall submit all required wage reports and pay all required contributions to the Office of Unemployment Insurance under KRS Chapter 341 using one (1) of the following:*
 - (a) *The professional employer organization shall file quarterly unemployment wage and tax reports to report the wages of all covered employees and pay all contributions, penalties, and interest on wages paid by the professional employer organization to its covered employees during the term of the applicable professional employer agreement under the reserve account of the professional employer organization; or*
 - (b) *The professional employer organization shall file quarterly unemployment wage and tax reports to report the wages of all covered employees and shall pay all contributions, penalties, and interest on wages paid by the professional employer organization to its covered employees during the term of the applicable professional employer agreement under the reserve or reimbursing account of the client. If the professional employer chooses this option:*
 1. *The professional employer organization shall notify the Office of Unemployment Insurance in writing;*
 2. *The professional employer organization shall assist the Office of Unemployment Insurance in the process of the separation and identification of the contribution history, benefit experience history, and payroll of each of its clients, and the Office of Unemployment Insurance shall transfer the benefit experience history to the client account;*
 3. *The Office of Unemployment Insurance shall determine the contribution rate of each client account separately based upon the client's contribution history, benefit experience history, and actual payroll. If:*
 - a. *There is not sufficient benefit experience history in the client account to establish a tax rate, the account will be assigned a tax rate pursuant to KRS 341.270(1); or*
 - b. *The client has benefit experience history from a previous account, that benefit experience history shall be used in calculating an earned tax rate pursuant to the provisions of KRS 341.270(4). The benefit experience history shall be transferred to the account assigned to that client as co-employer of the professional employer organization. If taxable wages were reported by the client in a previous account within the calendar year that the professional employer organization and the client enter into a professional employer agreement, the professional employer organization shall be given credit for the taxable wages reported by the client on each employee in the previous account; and*
 4. *The professional employer organization shall produce all documentation and information necessary for the Office of Unemployment Insurance to create the client account within sixty (60) days of filing a notice under this paragraph. If the information needed by the Office of Unemployment Insurance is not produced within the sixty (60) day period, the professional employer organization shall revert to reporting under subsection (1)(a) of this section. ~~Except as provided in subsection (2) of this section, covered employees of a registered professional employer organization shall be considered employees of the professional employer organization, which shall be responsible for the payment of contributions, penalties, and interest on wages paid by the professional employer organization to its covered employees during the term of the applicable professional employer agreement;~~*
- (2) Beginning on January 6, 2023, and continuing through December 31, 2024, the professional employer organization shall *submit all required wage reports* ~~[report]~~ and pay all required contributions to the *Office of Unemployment Insurance* ~~[unemployment insurance fund]~~ using the state employer identification number and contribution rate of the client. After January 1, 2025, the professional employer organization shall report and pay all required contributions to the unemployment insurance fund *in accordance with the provisions of subsection (1) of this section;*

- (3) *Any professional employer organization with an existing employer reserve account with the Office of Unemployment Insurance as of the effective date of this Act shall comply with the provisions of this section no later than January 1, 2025;*
- (4) *Any professional employer organization that does not have a current employer reserve account with the Office of Unemployment Insurance as of the effective date of this Act shall be liable for contributions under KRS Chapter 341 pursuant to this section;*
- (5) *After choosing one of the elections provided for under subsection (1) of this section, a professional employer organization shall be permitted to change its contribution election only once. The change of contribution election shall be made by the professional employer organization in writing. The change of contribution election shall become effective in the calendar year following the date the Office of Unemployment Insurance approves the professional employer organization's change of contribution option. If the Office of Unemployment Insurance approves a change of contribution election, all contribution history, benefit experience history, and payroll of each client shall be transferred to the:*
- (a) *Professional employer organization account, if the election of subsection (1)(a) of this section is chosen; or*
- (b) *Individual client accounts, if the election in subsection (1)(b) of this section is chosen;*
- (6) *Notwithstanding subsection (1) of this section, any client of a professional employer organization that is eligible for and has made an election to use the contribution method under KRS 341.275 shall continue using this method, regardless of whether the professional employer organization elected the option in subsection (1)(a) of this section; and*
- (7) ~~[using the state employer identification number and the contribution rate of the professional employer organization; and~~
- (3) ~~]Upon the termination of a contract between a professional employer organization and a client or the failure of a professional employer organization to submit reports or make tax payments as required by KRS 336.230 to 336.250, the client shall be treated as a new employer without a previous experience record unless that client is otherwise eligible for an experience rating.~~

Signed by Governor March 24, 2023.

CHAPTER 89

(HB 547)

AN ACT relating to First Amendment rights in public schools.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *For the purposes of this section, "on duty" means those times when a school district employee is:*
- (a) *Required by the district to be on campus or at another designated location and required to perform the scope of the employee's duties; or*
- (b) *Otherwise acting as a designated representative of the school district.*
- (2) *A school district shall not punish or prohibit an employee from, or punish an employee for, engaging in private religious expression otherwise protected by the First Amendment to the United States Constitution absent a showing that the employee has engaged in actual coercion.*
- (3) *While a school district employee is on duty, the employee may, at a minimum:*
- (a) *Engage in religious expression and discussions and share religious materials with other employees at the same time and in the same manner that employees are permitted to engage in nonreligious expression and discussions outside the scope of duties;*

- (b) *Engage in private religious expression at a time when it is otherwise permissible for an employee to engage in private expressive conduct or act outside the scope of duties;*
 - (c) *Meet with other district employees for prayer or religious study during times that the employee is allowed to act outside the scope of duties, including but not limited to employee breaks, time before school, and during lunch;*
 - (d) *Work as a sponsor of a student religious club or organization and assist students in planning meetings, activities, and events to the same extent that employee sponsors of nonreligious clubs or organizations are permitted to do so;*
 - (e) *Wear religious clothing, symbols, or jewelry, provided that such items otherwise comply with any dress code implemented by the school district;*
 - (f) *Decorate their desk and other personal spaces with personal items that reflect their religious beliefs to the same extent that other employees are permitted to decorate their desk and other personal spaces with personal items; and*
 - (g) *During noninstructional time, engage in religious expression and share religious materials to the same extent that other employees may engage in private expression permitted under the First Amendment to the United States Constitution.*
- (4) *Nothing in this section shall be construed to authorize the state or any other governmental organization to:*
- (a) *Require any person to participate in prayer or any other religious activity; or*
 - (b) *Violate the constitutional rights of any person.*
- (5) *This section shall not be construed to limit a school district's authority to:*
- (a) *Maintain order and discipline on school property in a content-neutral and viewpoint-neutral manner;*
 - (b) *Protect the safety of students, employees, and visitors; and*
 - (c) *Adopt and enforce policies and procedures regarding student speech at school that respect the rights of students.*

Signed by Governor March 24, 2023.

CHAPTER 90

(HB 586)

AN ACT relating to workforce development.

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

➔Section 1. KRS 151B.290 is amended to read as follows:

- (1) The Kentucky Education and Workforce Collaborative is hereby created for the purpose of ensuring the continued implementation of the Kentucky Workforce Innovation Board's strategic plan.
- (2) The Kentucky Education and Workforce Collaborative shall consist of the following **twenty-one (21)**~~twenty (20)~~ members:
 - (a) The Governor or his or her designee, who shall serve as chair;
 - (b) The secretary of the Education and Labor Cabinet or his or her designee;
 - (c) The secretary of the Cabinet for Health and Family Services or his or her designee;
 - (d) The president of the Kentucky Community and Technical College System or his or her designee;
 - (e) The president for the Council on Postsecondary Education or his or her designee;
 - (f) The commissioner of the Kentucky Department of Education or his or her designee;

- (g) The president of the Kentucky Chamber of Commerce or his or her designee;
 - (h) A representative of the board of directors from each of the Commonwealth's ten (10) local workforce development areas as selected by the board of directors;
 - (i) A representative selected by the Kentucky Association of Counties;
 - (j) A representative selected by the Kentucky Farm Bureau;~~and~~
 - (k) The chair of the Kentucky Workforce Innovation Board or his or her designee; *and*
 - (l) *The executive director/CEO of the Kentucky League of Cities or his or her designee.***
- (3) Meetings shall be held at least quarterly or at the call of the chair.
- (4) The Kentucky Education and Workforce Collaborative shall submit quarterly reports to the Legislative Research Commission summarizing its progress.
- (5) The Kentucky Education and Workforce Collaborative shall designate one (1) member as its legislative liaison to communicate with the General Assembly about the collaborative's progress and ensure that the work of the collaborative is separate and distinct from the work of the Kentucky Workforce Innovation Board. The liaison shall not be a member who is also a representative of a local workforce development area.
- (6) The Kentucky Education and Workforce Collaborative shall reach the following milestones and report findings, determinations, and procedures to the Kentucky Workforce Innovation Board:
- (a) Identification of all federal and state-funded workforce programs in the Commonwealth by September 30, 2023;
 - (b) Development of a complete framework for implementation and transition by September 30, 2023; and
 - (c) Evaluation and preparation of a determination of viability concerning the transfer of child-care services to local workforce development boards.
- (7) The Commonwealth shall reach the following milestones:
- (a) Procurement of a replacement for the UI and Case Management/Reporting System by December 31, 2023; and
 - (b) Transition and consolidation of all federal and state workforce training, employment, and employment-related programs into one (1) entity that shall have primary responsibility for the operation of and management of funding for the newly created consolidated entity by December 31, 2023.
- (8) The local workforce development boards shall each reach the following milestones:
- (a) By July 1, 2024, assumption of fiscal and administrative responsibilities for planning, oversight, and evaluation of all public workforce programs in the board's local workforce development area in the state. Each plan shall include:
 - 1. Governor-certified local workforce development boards to provide local control;
 - 2. Designated Kentucky Career Centers (KCCs) throughout the local workforce development area to provide the entire array of program services at each identified location;
 - 3. Integrated cross-program, functional service delivery systems to provide ease of access to local businesses and job seekers, with individual programs that are not apparent, but are defined by service requested by customer; and
 - 4. An emphasis on core competencies such that:
 - a. Local workforce development boards are focused on fiscal and program administration;
 - b. KCCs are focused on service delivery; and
 - c. Educational entities are focused on providing data-driven, workforce preparation services and competencies; and
 - 5. Functional services that include but are not limited to business services, job search, group training and assessment services, intensive job search preparation, and training with case management;

- (b) By July 1, 2024, development of comprehensive system-wide budgets, strategic plans, implementation plans, supervision agreements with different programmatic employers, memoranda of understanding for the KCCs, and any infrastructure funding agreements required by the Workforce Innovation and Opportunity Act; and
- (c) By July 1, 2025, and annually thereafter, preparation and transmission of a report to the Kentucky Education and Workforce Collaborative and Kentucky Workforce Innovation Board, detailing its attainment of the policies and goals contained in the Governor's current executive order issued pursuant to the Workforce Innovation and Opportunity Act.

Signed by Governor March 24, 2023.

CHAPTER 91

(SB 99)

AN ACT relating to disaster relief funding and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "relief fund" means a fund created on- or off-budget by statute, a government agency, cabinet secretary, appointed or elected official, or agency head to accept and expend funds received from any source for the purpose of providing relief to individuals and entities impacted by an emergency.*
- (2) *The agency head, cabinet secretary, or appointed or elected official that administers a relief fund shall provide a report and analysis of all relief funds to the Legislative Research Commission no later than the end of each fiscal year.*
- (3) *The analysis and report of relief funds shall include but not be limited to:*
 - (a) *A list of the total funds received or pledged, containing the following information:*
 - 1. *The type of entity, such as business, nonprofit or charitable organization, or individual; and*
 - 2. *The state and country of origin of the entity;*
 - (b) *A list of the expenditures or obligated or encumbered funds from the relief fund by:*
 - 1. *Recipient;*
 - 2. *Type of entity;*
 - 3. *Total amount disbursed;*
 - 4. *Dates of issuance;*
 - 5. *Method of delivery; and*
 - 6. *Purpose of assistance;*
 - (c) *The statutory and constitutional authority to raise revenue and expend funds from a state agency to individuals and entities absent an appropriation as required by Section 230 of the Constitution of Kentucky;*
 - (d) *The program or fund guidelines, application, and procedures established for individuals and entities seeking assistance from the relief fund;*
 - (e) *The program or fund guidelines and procedures established for the allocation of funds, including:*
 - 1. *The composition of each board, commission, or governing body created to administer the fund or program;*
 - 2. *The roles, assigned responsibilities, and authority of the entities involved in the administration of funds;*

3. *Any standards or procedures used to determine:*
 - a. *Award amounts;*
 - b. *Eligibility criteria;*
 - c. *Types of assistance;*
 - d. *Prioritization of applications; and*
 - e. *Fraud and risk mitigation procedures for administration of the relief fund;*
- (f) *Any solicitation, analysis, and evaluation procedures for obligation of funds for future expenditures for long-term recovery projects or partnerships with public and private organizations; and*
- (g) *Any plans for use of future receipts, and a timeline for dissolution of the program and fund.*

➔Section 2. KRS 39A.303 is amended to read as follows:

- (1) The East Kentucky State Aid Funding for Emergencies (EKSAFE) fund is established and shall be:
 - (a) Administered by the Department of Military Affairs, Division of Emergency Management, in accordance with this section;
 - (b) A separate fund to provide financial assistance for those located in the areas named in the Presidential Declaration of a Major Disaster, designated FEMA-4663-DR-KY, and impacted by the July 2022 storms and flooding that occurred in the eastern Kentucky region; and
 - (c) Used to provide financial support to those located in the areas named in the Presidential Declaration of a Major Disaster, designated FEMA-4663-DR-KY, in the eastern Kentucky region to recover from the devastation caused by the storms and flooding.
- (2) The Department of Military Affairs or the Division of Emergency Management shall not publicly advertise or solicit contributions from the general public that could potentially impact fundraising efforts of not-for-profit disaster relief agencies.
- (3) The EKSAFE fund may receive state appropriations, gifts, grants, federal funds, and any other funds, both public and private.
- (4) Moneys in the EKSAFE fund as of June 30, 2023, through June 30, ~~2026~~²⁰²⁴, shall not lapse and shall carry forward until June 30, ~~2026~~²⁰²⁴.
- (5) Any interest earnings of the EKSAFE fund shall become a part of the EKSAFE fund and shall not lapse.
- (6) (a) Eligibility to receive financial support from the EKSAFE fund shall be limited to a:
 1. City, county, urban-county government, consolidated local government, unified local government, or charter county government;
 2. Nonprofit or public utility service provider;
 3. State agency; or
 4. School district;

that has disaster-related needs as a result of the devastation experienced from the July 2022 storms and flooding.
- (b) An eligible recipient may receive moneys for expenses to provide disaster and recovery relief if the recipient:
 1. Is located in the areas named in the Presidential Declaration of a Major Disaster, designated FEMA-4663-DR-KY, relating to the storms and flooding that occurred in July 2022; and
 2. Has disaster-related needs in response to the storms and flooding that occurred in July 2022.
- (c) The financial support shall not cover any new construction inside the one hundred (100) year floodplain area.
- (d) 1. Eligible expenses shall be those used to support disaster and recovery relief, including but not limited to:
 - a. ~~i.~~ Replacement or renovation of publicly owned buildings damaged by the storms and

flooding, but only to the extent of damage directly caused by the storms and flooding; *and*

ii. Replacement, renovation, or expansion of an essential government facility that was used for existing services at the time of the disaster, including police, fire, and ambulance stations, functioning above capacity at the time of application, but only to the extent of damage directly caused by the storms and flooding;

~~b.[2.]~~ Reimbursement for services, personnel, and equipment provided during the response and recovery to communities impacted by the storms and flooding, but only to the extent of damage directly caused by the storms and flooding;

~~c.[3.]~~ Funding to cities, counties, and publicly owned utilities for the costs of replacement or repair of publicly owned buildings and their contents due to the damage from the storms and flooding, but only to the extent of damage directly caused by the storms and flooding;

~~d.[4.]~~ Assistance to cities and counties for expenses related to planning efforts for rebuilding and recovering from the damage, but only to the extent of damage directly caused by the storms and flooding;

~~e.[5.]~~ Assistance to support disaster recovery and relief needs of local school districts, but only to the extent of loss or damage directly caused by the storms and flooding, including but not limited to:

~~i.[a.]~~ Financial support for school districts that will experience a default in bond payments; and

~~ii.[b.]~~ Financial support to assist school districts with building and tangible property replacement needs; and

~~f.[6.]~~ Contracted employees to administer and report on the funds.

2. *a. Moneys used for the eligible expenses described in subparagraph 1.a.i. or ii. of this paragraph shall be:*

i. Issued in the form of a loan; and

ii. Used to replace, renovate, or expand an essential government facility that was used for existing services at the time of the disaster at up to one hundred twenty percent (120%) of capacity at the time of application for proceeds.

b. Any loan issued under subdivision a. of this subparagraph shall contain the following terms:

i. An interest rate of zero percent;

ii. A time for repayment of no longer than twenty (20) years; and

iii. A repayment structure of quarterly payments due on the thirtieth day of March, June, September, and December of each year until the loan is repaid.

c. The recipient of any loan issued under subdivision a. of this subparagraph shall report to the Department of Military Affairs, Division of Emergency Management, on a quarterly basis:

i. The amount of any insurance proceeds received related to the replacement, renovation, or expansion of an essential government facility for which the loan was granted; and

ii. The name and address of the insurance provider.

d. No later than November 1, 2023, and each November 1 thereafter, the Department of Military Affairs, Division of Emergency Management, shall compile the information reported by each recipient under subdivision c. of this subparagraph and report the compiled information to the Interim Joint Committee on Appropriations and Revenue.

(7) Each recipient of moneys from the EKSAFE fund, including any agency of Kentucky state government, shall:

- (a) Retain documentation of a timely application for any applicable reimbursement, including but not limited to federal emergency disaster grant assistance, other financial disaster assistance, and insurance proceeds; and
 - (b) Adhere to the terms of the EKSAFE fund regarding reimbursement to the Commonwealth if funds from other sources are subsequently received after the receipt of financial assistance from the Commonwealth.
- (8) (a) Moneys in the EKSAFE fund may be used for the advancement of moneys to cities, counties, school districts, and nonprofit or public utility service providers experiencing strained fiscal liquidity while awaiting reimbursement from federal emergency management assistance or insurance claims and shall not be used for capital improvements.
- (b) Reimbursement of the advancement under paragraph (a) of this subsection shall:
- 1. Be determined by the:
 - a. State-local finance officer within the Department for Local Government for cities and counties, and nonprofit or public utilities; and
 - b. Department of Education for school districts; and
 - 2. Include a quarterly accounting of the advancement released and the outstanding balance through June 30, ~~2026~~²⁰²⁴.
- (9) (a) **1.** If a recipient of moneys from the EKSAFE fund subsequently receives moneys from any other source, the recipient shall reimburse the Commonwealth for the amount of the moneys received from the EKSAFE fund.
- ~~2. (b)~~ Before July 1, ~~2026~~²⁰²⁴, all moneys reimbursed to the Commonwealth under **subparagraph 1. of this paragraph**~~[(a) of this subsection]~~ shall be deposited in the EKSAFE fund within thirty (30) days, and shall be continuously appropriated.
- ~~3. (c)~~ After June 30, ~~2026~~²⁰²⁴, all moneys reimbursed to the Commonwealth under **subparagraph 1. of this paragraph**~~[(a) of this subsection]~~ shall be deposited into the budget reserve trust fund account established in KRS 48.705 within thirty (30) days.
- (b) **1.** *If a recipient receives moneys in the form of a loan under subsection (6)(d)2. of this section, the recipient shall reimburse the Commonwealth for the amount of the moneys received from the EKSAFE fund according to the repayment structure under subsection (6)(d)2.b.iii of this section.*
- 2.** *Before July 1, 2026, all moneys reimbursed to the Commonwealth under subparagraph 1. of this paragraph shall be deposited in the EKSAFE fund within thirty (30) days, and shall be continuously appropriated.*
- 3.** *After June 30, 2026, all moneys reimbursed to the Commonwealth under subparagraph 1. of this paragraph shall be deposited into the budget reserve trust fund account established in KRS 48.705 within thirty (30) days.*
- (10) The Division of Emergency Management shall promulgate administrative regulations to carry out this section.
- (11) The following reports shall be submitted to the Senate Standing Committee on Appropriations and Revenue and the House Standing Committee on Appropriations and Revenue or the Interim Joint Committee on Appropriations and Revenue by the tenth day of each month, beginning September 10, 2022, and ending July 10, ~~2026~~²⁰²⁴:
- (a) A report from the Office of State Budget Director that includes:
 - 1. The name of each recipient of moneys from the EKSAFE fund;
 - 2. The dollar amount of moneys issued and the dates of issuance;
 - 3. A description of how the moneys were used; and
 - 4. A list of all requests:
 - a. Submitted, including the amount requested;
 - b. Denied, including a description of the reason for the denial; and

- c. Where the amount awarded was greater than or less than the amount requested, including a description of the reason for the increase or decrease; and
- (b) A report from the Department of Education that includes:
 - 1. The name of each school district receiving moneys from the EKSAFE fund;
 - 2. The dollar amount of moneys issued and the dates of issuance;
 - 3. A description of how the moneys were used; and
 - 4. A list of all requests:
 - a. Submitted, including the amount requested;
 - b. Denied, including a description of the reason for the denial; and
 - c. Where the amount awarded was greater than or less than the amount requested, including a description of the reason for the increase or decrease.

➔Section 3. KRS 39A.305 is amended to read as follows:

- (1) The West Kentucky State Aid Funding for Emergencies (WKSAFE) fund is established and shall be:
 - (a) Administered by the Department of Military Affairs, Division of Emergency Management, in accordance with this section;
 - (b) A separate fund to provide financial assistance for those impacted by the December 2021 storms and tornadoes that occurred in the west Kentucky region; and
 - (c) Used to provide financial support to the west Kentucky region to recover from the devastation caused by the storms and tornadoes.
- (2) The Department of Military Affairs or the Division of Emergency Management shall not publicly advertise or solicit contributions from the general public that could potentially impact fundraising efforts of not-for-profit disaster relief agencies.
- (3) The WKSAFE fund may receive state appropriations, gifts, grants, federal funds, and any other funds, both public and private.
- (4) Moneys in the WKSAFE fund as of June 30, 2022, through June 30, 2026, shall not lapse and shall carry forward until June 30, 2026.
- (5) Any interest earnings of the WKSAFE fund shall become a part of the WKSAFE fund and shall not lapse.
- (6) ~~[(a)]~~ Eligibility to receive financial support from the WKSAFE fund shall be limited to a:
 - ~~(a)[1-]~~ City, county, urban-county government, consolidated local government, unified local government, or charter county government;
 - ~~(b)[2-]~~ Nonprofit or public utility service provider;
 - ~~(c)[3-]~~ State agency;
 - ~~(d)[4-]~~ School district; or
 - ~~(e)[5-]~~ Qualified lender as defined in KRS 154.20-580;

that has disaster-related needs as a result of the devastation experienced from the December 2021 storms and tornadoes.
- ~~(7)[(b)]~~ An eligible recipient may receive moneys for expenses to provide disaster and recovery relief if the recipient:
 - ~~(a)[1-]~~ Is located in the areas named in a Presidential Declaration of Emergency relating to the storms and tornadoes that occurred in December 2021; and
 - ~~(b)[2-]~~ Has disaster-related needs in response to the storms and tornadoes that occurred in December 2021.
- ~~(8)[(e)]~~ Eligible expenses shall be those used to support disaster and recovery relief, including but not limited to:

- (a) 1. Replacement or renovation of publicly owned buildings damaged by the storms and tornadoes, but only to the extent of damage directly caused by the storms and tornadoes; *and*
2. ***Replacement, renovation, or expansion of an essential government facility that was used for existing services at the time of the disaster, including police, fire, and ambulance stations, functioning above capacity at the time of application, but only to the extent of damage directly caused by the storms and tornadoes;***
- (b)~~[2.]~~ Reimbursement for services, personnel, and equipment provided during the response and recovery to communities impacted by the storms and tornadoes, but only to the extent of damage directly caused by the storms and tornadoes;
- (c)~~[3.]~~ Funding to cities, counties, and publicly owned utilities for the costs of replacement or repair of publicly owned buildings and their contents due to the damage from the storms and tornadoes, but only to the extent of damage directly caused by the storms and tornadoes;
- (d)~~[4.]~~ Assistance to cities and counties for expenses related to planning efforts for rebuilding and recovering from the damage, but only to the extent of damage directly caused by the storms and tornadoes;
- (e)~~[5.]~~ Assistance to support disaster recovery and relief needs of local school districts, but only to the extent of damage directly caused by the storms and tornadoes, including but not limited to:
- 1.~~[a.]~~ Financial support for school districts that will experience a default in bond payments; and
- 2.~~[b.]~~ Financial support to assist school districts with building and tangible property replacement needs;
- (f)~~[6.]~~ Contracted employees to administer and report on the funds; and
- (g) 1.~~[7.—a.]~~ Financial assistance to cities, counties, and school districts for realized revenue losses, but only to the extent the loss is directly caused by the storms and tornadoes, and to be determined on a quarterly basis by the:
- a.~~[i.]~~ State-local finance officer within the Department for Local Government for cities and counties; and
- b.~~[ii.]~~ Department of Education for school districts.
- 2.~~[b.]~~ The financial assistance determined in ***subparagraph 1. of this paragraph***~~[subdivision a. of this subparagraph]~~ shall be limited to:
- a.~~[i.]~~ One hundred percent (100%) of the lost revenue in fiscal year 2022-2023;
- b.~~[ii.]~~ Sixty-six percent (66%) of the lost revenue in fiscal year 2023-2024; and
- c.~~[iii.]~~ Thirty-three percent (33%) of the lost revenue in fiscal year 2024-2025.
- (9) (a) ***Moneys used for the eligible expenses described in subsection (8)(a)1. or 2. of this section shall be:***
1. ***Issued in the form of a loan; and***
2. ***Used to replace, renovate, or expand an essential government facility that was used for existing services at the time of the disaster at up to one hundred twenty percent (120%) of capacity at the time of application for proceeds.***
- (b) ***Any loan issued under paragraph (a) of this subsection shall contain the following terms:***
1. ***An interest rate of zero percent;***
2. ***A time for repayment of no longer than twenty (20) years; and***
3. ***A repayment structure of quarterly payments due on the thirtieth day of March, June, September, and December of each year until the loan is repaid.***
- (c) ***The recipient of any loan issued under paragraph (a) of this subsection shall report to the Department of Military Affairs, Division of Emergency Management, on a quarterly basis:***
1. ***The amount of any insurance proceeds received related to the replacement, renovation, or expansion of an essential government facility for which the loan was granted; and***
2. ***The name and address of the insurance provider.***

- (d) *No later than November 1, 2023, and each November 1 thereafter, the Department of Military Affairs, Division of Emergency Management, shall compile the information reported by each recipient under paragraph (c) of this subsection and report the compiled information to the Interim Joint Committee on Appropriations and Revenue.*
- (10)~~(7)~~ Each recipient of moneys from the WKS SAFE fund, including any agency of Kentucky state government, shall:
- (a) Timely apply for federal emergency disaster grant assistance, other financial disaster assistance, and insurance proceeds; and
 - (b) Adhere to the terms of the WKS SAFE fund regarding reimbursement to the Commonwealth if funds from other sources are subsequently received after the receipt of financial assistance from the Commonwealth.
- (11)~~(8)~~ (a) Moneys in the WKS SAFE fund may be used for the advancement of moneys to cities, counties, and nonprofit or public utility service providers experiencing strained fiscal liquidity while awaiting reimbursement from federal emergency management assistance or insurance claims and shall not be used for capital improvements.
- (b) Reimbursement of the advancement under paragraph (a) of this subsection shall:
1. Be determined by the:
 - a. State-local finance officer within the Department for Local Government for cities and counties, and nonprofit or public utilities; and
 - b. Department of Education for school districts; and
 2. Include a quarterly accounting of the advancement released and the outstanding balance through June 30, 2026.
- (12)~~(9)~~ (a) **1.** If a recipient of moneys from the WKS SAFE fund subsequently receives moneys from any other source, the recipient shall reimburse the Commonwealth for the amount of the moneys received from the WKS SAFE fund.
- ~~2.(b)~~ Before July 1, 2026, all moneys reimbursed to the Commonwealth under *subparagraph 1. of this paragraph*~~[(a) of this subsection]~~ shall be deposited in the *WKS SAFE*~~[(West Kentucky State Aid Funding for Emergencies (WKS SAFE))]~~ fund within thirty (30) days, and shall be continuously appropriated.
- ~~3.(c)~~ After June 30, 2026, all moneys reimbursed to the Commonwealth under *subparagraph 1. of this paragraph*~~[(a) of this subsection]~~ shall be deposited into the budget reserve trust fund account established in KRS 48.705 within thirty (30) days.
- (b) **1.** *If a recipient receives moneys in the form of a loan under subsection (9)(a) of this section, the recipient shall reimburse the Commonwealth for the amount of the moneys received from the WKS SAFE fund according to the repayment structure under subsection (9)(b)3. of this section.*
- 2.** *Before July 1, 2026, all moneys reimbursed to the Commonwealth under subparagraph 1. of this paragraph shall be deposited in the WKS SAFE fund within thirty (30) days, and shall be continuously appropriated.*
- 3.** *After June 30, 2026, all moneys reimbursed to the Commonwealth under subparagraph 1. of this paragraph shall be deposited into the budget reserve trust fund account established in KRS 48.705 within thirty (30) days.*
- (13)~~(10)~~ The Division of Emergency Management shall promulgate administrative regulations to carry out this section.
- (14)~~(11)~~ The following reports shall be submitted to the Senate Standing Committee on Appropriations and Revenue and the House Standing Committee on Appropriations and Revenue or the Interim Joint Committee on Appropriations and Revenue by the tenth day of each month, beginning May 10, 2022, and ending July 10, 2026:
- (a) A report from the Office of State Budget Director that includes:
 1. The name of each recipient of moneys from the WKS SAFE fund;

2. The dollar amount of moneys issued and the dates of issuance;
 3. A description of how the moneys were used; and
 4. A list of all requests:
 - a. Submitted, including the amount requested;
 - b. Denied, including a description of the reason for the denial; and
 - c. Where the amount awarded was greater than or less than the amount requested, including a description of the reason for the increase or decrease; and
- (b) A report from the Department of Education that includes:
1. The name of each school district receiving moneys from the WKSAFE fund;
 2. The dollar amount of moneys issued and the dates of issuance;
 3. A description of how the moneys were used; and
 4. A list of all requests:
 - a. Submitted, including the amount requested;
 - b. Denied, including a description of the reason for the denial; and
 - c. Where the amount awarded was greater than or less than the amount requested, including a description of the reason for the increase or decrease.

~~(15)~~~~(12)~~ A report shall be submitted to the Senate Standing Committee on Appropriations and Revenue and the House Standing Committee on Appropriations and Revenue or the Interim Joint Committee on Appropriations and Revenue by the tenth day following the end of each calendar quarter by the Cabinet for Economic Development, beginning July 10, 2026, and ending when no further applications for a loss payment may be submitted under KRS 154.20-589(7), including:

- (a) The name of each qualified lender receiving a loss payment;
- (b) The dollar amount of the payment received;
- (c) A description of the loan terms; and
- (d) An explanation regarding why the loss payment was needed.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

- (a) "Cabinet" means the Public Protection Cabinet;**
- (b) "Cost or fee for administrative purposes" means any expenditure that is not:**
 - 1. Direct aid to a Kentucky resident or a small business; or**
 - 2. A processing fee imposed by a merchant bank or credit card company;**
- (c) "Qualified nonprofit organization" means a tax-exempt entity under 26 U.S.C. sec. 501(c)(3) or (4) that:**
 - 1. Agrees to use all grants of moneys from the Kentucky contribution trust fund established in subsection (2) of this section to serve Kentucky residents directly impacted by the tornadoes or flooding; and**
 - 2. Provides:**
 - a. Food;**
 - b. Clothing;**
 - c. Shelter;**
 - d. Utilities;**
 - e. Medical expenses;**

- f. *Household needs;*
 - g. *Other necessities of life; or*
 - h. *Long-term financial or rebuilding assistance; and*
- (d) *"Small business" means any business entity organized for profit, including a sole proprietorship, partnership, limited partnership, corporation, limited liability company, joint venture, association, or cooperative that:*
- 1. *Had fifty (50) or fewer full-time employees on December 9, 2021;*
 - 2. *Is not an affiliate or subsidiary of a larger corporate structure, unless the total number of employees of all the affiliates and subsidiaries within that structure is fifty (50) or fewer;*
 - 3. *Had at least one (1) business location in an area named in the Presidential Declaration of a Major Disaster, designated FEMA-4630-DR-KY on December 9, 2021, or the Presidential Declaration of a Major Disaster, designated FEMA-4663-DR-KY on July 26, 2022;*
 - 4.
 - a. *Sustained damage to a business location described in subparagraph 3. of this paragraph; or*
 - b. *Experienced business interruption as a result of the severe weather events of December 10 and 11, 2021, or from July 26 to August 11, 2022;*
 - 5.
 - a. *Agrees to use the grant of moneys for a business location described in subparagraph 3. of this paragraph; and*
 - b. *Uses the grant of moneys to maintain business operations or repair or rebuild that business location;*
 - 6. *Is presently in operation or will be in operation; and*
 - 7. *Is in good standing with the Kentucky Department of Revenue and the Kentucky Secretary of State.*
- (2) *The Kentucky contribution trust fund is established as a trust and agency account in the State Treasury and shall be administered by the cabinet.*
- (3) *The fund shall consist of all moneys:*
- (a) *Solicited by any person within the Governor's General Cabinet described in KRS 11.060 or employee thereof, within his or her official capacity;*
 - (b) *Donated to or held by the Commonwealth, including but not limited to any moneys associated with the:*
 - 1. *Team Kentucky fund established by the Governor;*
 - 2. *Team western Kentucky tornado relief fund established by the Governor following the December 2021 storms and tornadoes that occurred in the western Kentucky region; and*
 - 3. *Team eastern Kentucky flood relief fund established by the Governor following the July 2022 storms and flooding that occurred in the eastern Kentucky region; and*
 - (c) *Not required by statute to be deposited in another fund.*
- (4) (a) *Moneys deposited in the fund shall be accounted for separately based on the purpose for which the moneys were solicited.*
- (b) *When moneys are deposited from the funds described in subsection (3)(b) of this section, the moneys hereby are appropriated for the purposes provided in this section.*
 - (c) *All other moneys shall be maintained in the fund until appropriated by the General Assembly.*
 - (d) *All recipients of a grant of moneys from this fund shall certify that they are in compliance with the requirements of this section prior to receiving any moneys.*
 - (e) *Applications providing fraudulent information shall be referred by the Public Protection Cabinet to the Office of Attorney General, Office of Special Prosecutions.*

- (5) *Notwithstanding KRS 45.229, fund amounts not appropriated at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.*
- (6) *The cabinet shall:*
- (a) *Develop a process to review and accept or deny applications for grants of moneys from the fund based on eligibility requirements under this section for each type of solicited donation;*
 - (b) *1. Prepare warrants on the State Treasury for any grant of moneys approved by the cabinet, including a direct payment for funeral expenses;*
2. Coordinate the direct payment for funeral expenses; and
3. Obtain all necessary information from the Kentucky Office of Vital Statistics, coroners, or other appropriate entities to verify eligibility for any direct payment for funeral expenses;
 - (c) *Ensure delivery of the moneys to the applicant or the direct payment for funeral expenses; and*
 - (d) *Promulgate administrative regulations in accordance with KRS Chapter 13A to provide application forms, application deadlines, and other administrative procedures necessary to fulfill the duties required by this section.*
- (7) *Related to the team western Kentucky tornado relief donations:*
- (a) *Moneys solicited shall be used to assist an individual or a small business directly impacted by the storms and tornadoes on December 10 and 11, 2021;*
 - (b) *An eligible applicant for a grant of moneys from the fund shall be a:*
 - 1. *Person who is responsible for the payment of funeral expenses for another individual whose death was directly related to the storms and tornadoes and any grant issued shall be a direct payment to the entity providing the funeral services in an amount not to exceed ten thousand dollars (\$10,000);*
 - 2. *Kentucky resident who:*
 - a. *Resides in an area named in the Presidential Declaration of a Major Disaster, designated FEMA-4630-DR-KY; and*
 - b. *Was directly impacted by the storms and tornadoes;*
 - 3. *Qualified nonprofit organization; or*
 - 4. *Small business; and*
 - (c) *A grant of moneys shall not be issued for any:*
 - 1. *Cost or fee for administrative purposes;*
 - 2. *Expenditure in which the applicant receives benefits from a federal source, including but not limited to payments from the Federal Emergency Management Agency;*
 - 3. *Payment to a nonresident of Kentucky; or*
 - 4. *Payment to a nonprofit organization, other than a qualified nonprofit organization.*
- (8) *Related to the team eastern Kentucky flood relief donations:*
- (a) *Moneys solicited shall be used to assist an individual or a small business directly impacted by the storms and flooding that began on July 26, 2022, and generated multiple rounds of heavy torrential rain, resulting in flooding, flash flooding, mudslides, and landslides;*
 - (b) *An eligible applicant for a grant of moneys from the fund shall be a:*
 - 1. *Person who is responsible for the payment of funeral expenses for another individual whose death was directly related to the storms and flooding and any grant issued shall be a direct payment to the entity providing the funeral services in an amount not to exceed ten thousand dollars (\$10,000);*
 - 2. *Kentucky resident who:*

- a. *Resides in an area named in the Presidential Declaration of a Major Disaster, designated FEMA-4663-DR-KY; and*
 - b. *Was directly impacted by the flooding, mudslides, and landslides;*
 - 3. *Qualified nonprofit organization; or*
 - 4. *Small business; and*
- (c) *A grant of moneys shall not be issued for any:*
 - 1. *Cost or fee for administrative purposes;*
 - 2. *Expenditure in which the applicant receives benefits from a federal source, including but not limited to payments from the Federal Emergency Management Agency;*
 - 3. *Payment to a nonresident of Kentucky; or*
 - 4. *Payment to a nonprofit organization, other than a qualified nonprofit organization.*
- (9) (a) *Any qualified nonprofit organization or small business that receives a grant of moneys from the fund shall document expenditures made using those moneys.*
- (b) *The documentation shall be maintained for at least four (4) years following the distribution of the moneys and shall be subject to inspection during that time by the cabinet.*
- (c) *All documents and materials submitted to either the Commonwealth or the cabinet shall be considered a public record subject the Kentucky Open Records Act, KRS 61.870 to 61.884.*
- (10) (a) *As used in this subsection, "affiliation" means the relationship between:*
 - 1. *Members of a family, including brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;*
 - 2. *An individual and a corporation, of which more than fifty percent (50%) in value of the outstanding stock is owned, directly or indirectly, by or for that individual;*
 - 3. *An individual and a limited liability company or a partnership, 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; or*
 - 4. *An individual that is a grantor or a beneficiary of a trust and the fiduciary of that trust.*
- (b) *The secretary of the Public Protection Cabinet shall report the following information beginning on the tenth day of the first month following the effective date of this Act and on the tenth day of each month thereafter:*
 - 1. *Information related to moneys deposited into the fund, including but not limited to:*
 - a. *The name of the person, member, or employee soliciting the moneys;*
 - b. *The purpose of the solicitation;*
 - c. *The type of entity making the donation, including a business entity, nonprofit or charitable organization, or individual; and*
 - d. *The state and country of origin of the entity; and*
 - 2. *Information related to expenditures from the fund, including but not limited to:*
 - a. *The name and address of the person or business entity receiving any moneys from the fund;*
 - b. *The amount of moneys received;*
 - c. *The date of issuance of the moneys;*
 - d. *The method of delivery of the moneys;*
 - e. *The purpose for which the moneys were granted; and*
 - f. *A statement regarding the affiliation, if any, between the person, member, or employee soliciting the moneys and the person or business entity receiving the moneys.*

- (c) *The report required by paragraph (b) of this subsection shall be submitted to the Senate Standing Committee on Appropriations and Revenue and the House Standing Committee on Appropriations and Revenue or the Interim Joint Committee on Appropriations and Revenue.*

➔Section 5. KRS 12.270 is amended to read as follows:

- (1) The secretary of each cabinet shall:
- (a) Be a member of the Governor's Cabinet and shall serve as the Governor's liaison in carrying out the responsibilities for overall direction and coordination of the departments, boards, and commissions included in the related cabinet;
 - (b) Recommend to the Governor desired reorganization affecting the related cabinet;
 - (c) Advise the Governor on executive actions, legislative matters, and other steps that may be desirable for better program service;
 - (d) Evaluate and pass upon all budget requests originated by the departments, boards, and commissions within the related cabinet;
 - (e) Advise the Governor on the appointment of commissioners and heads of units included in the related cabinet, except for those whose election or selection is otherwise provided for by law.
- (2) *Except as provided by Section 4 of this Act*, each secretary is authorized to accept and expend funds from any source, whether public or private, in support of the duties and responsibilities of the related cabinet.
- (3) Each secretary shall have any and all necessary power and authority, subject to appropriate provisions of the statutes, to create such positions and to employ the necessary personnel in such positions to enable the secretary to perform the functions of his *or her* office.
- (4) Each secretary shall have exclusive control and direction over the administration of the related cabinet programs as required by law.

➔Section 6. 2022 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 5, is amended to read as follows:

There hereby is appropriated Restricted Funds from the East Kentucky State Aid Funding for Emergencies (EKSAFE) fund in the amount of \$40,000,000 in fiscal year 2022-2023 to the Military Affairs budget unit to be used by the Division of Emergency Management for the advancement of moneys to school districts and nonprofit or public utility service providers for the purposes set out in subsection (8)(a) of Section 1 of this Act. No moneys from this appropriation shall be awarded until all moneys appropriated in Section 4 of this Act have been awarded. ~~The Restricted Funds appropriation balance that has not been awarded for this purpose as of January 7, 2023, shall lapse to the Budget Reserve Trust Fund Account (KRS 48.705).~~

➔Section 7. Whereas relief funds provide vital assistance to individuals, families, and businesses that have suffered from natural disasters, and timely and efficient allocation of these funds to communities is essential to the public good, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 24, 2023.

CHAPTER 92

(HB 360)

AN ACT relating to fiscal matters and declaring an emergency.

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

➔Section 1. KRS 48.115 is amended to read as follows:

- (1) The revenue estimates for the general fund and the road fund required by KRS 48.120 shall be based on a consensus revenue forecast. ~~The planning report,~~ preliminary revenue estimates, and official revenue estimates required by KRS 48.120 shall be developed by the consensus forecasting group. The members of the consensus forecasting group shall be jointly selected by the state budget director and the Legislative Research

Commission. The members shall be knowledgeable about the state and national economy and the revenue and financial conditions of the Commonwealth.

- (2) If the Legislative Research Commission or state budget director determines that a revision to the official revenue estimates is needed, the Legislative Research Commission or state budget director shall request a revision from the consensus forecasting group. The revised revenue estimates shall become the official revenue estimates.
- (3) The enacted budget reduction plan required by KRS 48.130 shall be implemented only:
 - (a) Upon the issuance of an official revenue estimate from the consensus forecasting group reflecting a revenue shortfall of five percent (5%) or less; or
 - (b) At the end of a fiscal year, upon the existence of an actual revenue shortfall of five percent (5%) or less, as determined by the Office of State Budget Director.
- (4) The state budget director shall coordinate with the Department of Revenue and the Transportation Cabinet to ensure that the financial and revenue data required for the forecasting process is made available to the consensus forecasting group.
- (5) Staff for the consensus forecasting group shall be provided by the Legislative Research Commission.

➔Section 2. KRS 48.120 is amended to read as follows:

- (1) By **September 30**~~[August 15]~~ of each odd-numbered year, the Office of State Budget Director, in conjunction with the consensus forecasting group, shall provide to each branch of government **preliminary revenue estimates**~~[a budget planning report]~~. The **preliminary revenue estimates**~~[budget planning report]~~ shall include:
 - (a) A baseline analysis and projections of economic conditions and outlook;
 - (b) Any potential consequences of the analysis and projections for the Commonwealth's fiscal condition;
 - (c) The revenue estimates and implications for the general fund and road fund for the current fiscal year and next **two (2)**~~[four (4)]~~ fiscal years; and
 - (d) Projections of personal income, employment, and economic indicators that reflect economic conditions.
- ~~(2) [By October 15 of each odd-numbered year, the Office of State Budget Director shall provide to each branch of government preliminary revenue estimates made by the consensus forecast group for the general fund and road fund for the current and next two (2) fiscal years, including explanatory statements, and a comparative record of the actual revenues of these funds for each of the last two (2) years concluded.]~~
- ~~(3)]~~On or before the fifteenth legislative day, the Office of State Budget Director shall certify and present to the **Legislative Research Commission**~~[General Assembly]~~ the official revenue estimates made by the consensus forecasting group for the general fund and road fund for the current and next two (2) fiscal years.
- ~~(3)~~~~(4)~~ Appropriations made in the branch budget bills enacted for each branch of government shall be based upon the official revenue estimates presented to the **Legislative Research Commission**~~[General Assembly]~~ by the Office of State Budget Director under subsection ~~(2)~~~~(3)~~ of this section, as modified by the General Assembly.
- ~~(4)~~~~(5)~~ The enacted estimates shall become the official revenue estimates of the Commonwealth upon the branch budget bills becoming law, and shall remain the official revenue estimates of the Commonwealth until revised by the consensus forecasting group as provided in KRS 48.115.

➔Section 3. KRS 132.0225 is amended to read as follows:

- (1) (a) A taxing district that does not elect to attempt to set a rate that will produce more than four percent (4%) in additional revenue, exclusive of revenue from new property as defined in KRS 132.010, over the amount of revenue produced by the compensating tax rate as defined in KRS 132.010 shall establish a final tax rate within forty-five (45) days of the department's certification of the county's property tax roll.
 - (b) *For boards of education, the forty-five (45) days shall begin from the date of the department's certification to the chief state school officer as required by KRS 160.470(4).*
 - (c) A city that does not elect to have city ad valorem taxes collected by the sheriff as provided in KRS 91A.070(1) shall be exempt from **the forty-five (45) day**~~[this]~~ deadline.

(d) Any nonexempt taxing district that fails to meet *the forty-five (45) day*~~[this]~~ deadline shall be required to use the compensating tax rate for that year's property tax bills.

(2) A taxing district that elects to attempt to set a rate that will produce more than four percent (4%) in additional revenue, exclusive of revenue from new property as defined in KRS 132.010, over the amount of revenue produced by the compensating tax rate as defined in KRS 132.010 shall follow the provisions of KRS 132.017.

➔Section 4. KRS 138.472 is amended to read as follows:

(1) As used in this section:

(a) "Department" means the Kentucky Department of Revenue;

(b) "Gross receipts" means the total consideration received for the:

1. Rental of a vehicle, including the daily or hourly rental fee, fees charged for using the services, charges for insurance protection plans, fuel charges, pickup and delivery fees, late fees, and any charges for any services necessary to complete the rental transaction made by a:

a. Peer-to-peer car sharing company; or

b. Motor vehicle rental company; and

2. Charges made to provide the service to a user, including any charges for time or mileage, fees for using the services, and any charges for any services necessary to complete the transaction made by a:

a. TNC;

b. Taxicab; or

c. Limousine service provider;

(c) The following terms have the same meaning as in KRS 281.010:

1. **"Human service transportation delivery";**

2. "Limousine";

3.~~[2.]~~ "Peer-to-peer car sharing certificate";

4.~~[3.]~~ "Peer-to-peer car sharing company";

5.~~[4.]~~ "Peer-to-peer car sharing driver";

6.~~[5.]~~ "Peer-to-peer car sharing program";

7.~~[6.]~~ "Shared vehicle";

8.~~[7.]~~ "Shared vehicle driver";

9.~~[8.]~~ "Taxicab";

10.~~[9.]~~ "Transportation network company" or "TNC";

11.~~[10.]~~ "Transportation network company service" or "TNC service"; and

12.~~[11.]~~ "U-Drive-It";

(d) "Motor vehicle rental company" has the same meaning as in KRS 281.687; and

(e) "Person" means *the individual or the entity required to be* the holder of any of the following certificates in KRS 281.630:

1. Limousine;

2. Peer-to-peer car sharing;

3. Taxicab;

4. Transportation network; and

5. U-Drive-It.

- (2) (a) An excise tax is imposed upon every person for the privilege of providing a motor vehicle for sharing or for rent, with or without a driver, within the Commonwealth.
- (b) The tax is imposed at the rate of six percent (6%) of the gross receipts derived from the:
- 1.~~[(a)]~~ Rental of a shared vehicle by a peer-to-peer car sharing company;
 - 2.~~[(b)]~~ Rental of a vehicle by a motor vehicle renting company;
 - 3.~~[(c)]~~ Sales of TNC services;
 - 4.~~[(d)]~~ Sales of taxicab services; and
 - 5.~~[(e)]~~ Sales of limousine services.
- (c) *Excluded from the tax are receipts derived from the provision of human service transportation delivery.*
- (3) (a) The tax imposed under subsection (2) of this section shall be administered and collected by the department. Revenues generated from the tax shall be deposited into the general fund.
- (b) *On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the department by every person required to pay the tax in a form prescribed by the department.*
- (4) The tax imposed by subsection (2) of this section shall be the direct obligation of the peer-to-peer car sharing company, the motor vehicle renting company, the TNC, the taxicab service provider, and the limousine service provider, but it may be charged to and collected from the user of the service. The tax shall be remitted to the department each month on forms and pursuant to administrative regulations promulgated by the department.
- (5) (a) As soon as practicable after each return is received, the department shall examine and audit the return. If the amount of taxes computed by the department is greater than the amount returned by the person, the excess shall be assessed by the department within four (4) years from the date the return was filed, except as provided in paragraph (c) of this subsection, and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the person.
- (b) For the purpose of paragraphs (a) and (c) of this subsection, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.
- (c) Notwithstanding the four (4) year time limitation of paragraph (a) of this subsection, in the case of a return where the amount of taxes computed by the department is greater by twenty-five percent (25%) or more than the amount returned by the person, the excess shall be assessed by the department within six (6) years from the date the return was filed.
- (6) Failure to remit the taxes shall be sufficient cause for the Department of Vehicle Regulation to void the certificate issued to a:
- (a) Limousine certificate holder;
 - (b) Peer-to-peer car sharing certificate holder;
 - (c) Taxicab certificate holder;
 - (d) TNC certificate holder; or
 - (e) U-Drive-It certificate holder.
- (7) If a person fails or refuses to file a return or furnish any information requested in writing, the department may, from any information in its possession, make an estimate of the certificate holder's total trip costs and issue an assessment against the certificate holder based on the estimated trip cost charges and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties provided by law.
- (8)~~—If any person fails to make and file a return required by subsection (4) of this section on or before the due date of the return, or if the taxes, or portion thereof, is not paid on or before the date prescribed for its payment, then, unless it is shown to the satisfaction of the department that the failure is due to a reasonable cause, five percent (5%) of the taxes found to be due shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed~~

~~twenty five percent (25%) of the tax; provided, however, that in no case shall the penalty be less than ten dollars (\$10).~~

~~(9)~~ If the tax imposed by subsection (2) of this section is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made.

~~(9)~~~~(10)~~ Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every person holding the corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 139.650 and all applicable penalties imposed under this chapter and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

~~(10)~~~~(11)~~ Notwithstanding any other provisions of this chapter, KRS 275.150, 362.1-306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of a limited liability company, the partners of a limited liability partnership, and the general partners of a limited liability limited partnership, or any other person holding any equivalent office of a limited liability company, limited liability partnership, or limited liability limited partnership subject to the provisions of this chapter, shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter. Dissolution, withdrawal of the limited liability company, limited liability partnership, or limited liability limited partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company, partner of a limited liability partnership, and general partner of a limited liability limited partnership at the time the taxes become or became due. No person shall be personally and individually liable under this subsection who had no authority to collect, truthfully account for, or pay over any tax imposed by this chapter at the time that the taxes imposed by this chapter become or became due. "Taxes" as used in this section shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

~~(11)~~~~(12)~~ Any person who violates any of the provisions of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.

➔Section 5. KRS 138.475 (Effective January 1, 2024) is amended to read as follows:

(1) As used in this section:

(a) "Electric motorcycle" means the same as "motorcycle" or "motor scooter" as defined in KRS 186.010, that is powered by a:

1. Battery or equivalent energy storage device that can be charged with an electric plug using an external electricity source; or
2. Combination of an internal combustion engine and electric motor;

(b) "Electric vehicle" means any vehicle that has plug-in charging capability, regardless of whether the vehicle is powered by:

1. An electric motor only; or
2. A combination of an internal combustion engine and electric power; and

(c) "Hybrid vehicle" means any vehicle that does not have plug-in charging capability and is powered by a combination of an internal combustion engine and an electric motor.

(2) At the time of initial registration, and each year upon annual vehicle registration renewal, the county clerk shall collect, as required under KRS 186.050, from the registrants of electric motorcycles, electric vehicles, and hybrid vehicles the electric vehicle ownership fees established under subsections (3) and (4) of this section.

(3) The electric vehicle ownership fees shall be:

- (a) One hundred twenty dollars (\$120) for electric vehicles; and
 - (b) Sixty dollars (\$60) for electric motorcycles or hybrid vehicles.
- (4) The Department of Revenue shall adjust the fees established in subsection (3) of this section, on the same schedule and in the same manner as the adjustments to the electric vehicle power taxes under KRS 138.477, except that:
- (a) Adjustment to the fees shall be rounded to the nearest dollar; and
 - (b) Any adjustment of fees shall not result in a decrease below the base fees established in subsection (3) of this section.
- (5) The electric vehicle ownership fees collected under this section shall be transferred:
- ~~(a) Fifty percent (50%) to the general fund; and~~
 - ~~(b) Fifty percent (50%) to the road fund.~~

➔Section 6. KRS 139.010 is amended to read as follows:

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

- (1) (a) "Admissions" means the fees paid for:
1. The right of entrance to a display, program, sporting event, music concert, performance, play, show, movie, exhibit, fair, or other entertainment or amusement event or venue; and
 2. The privilege of using facilities or participating in an event or activity, including but not limited to:
 - a. Bowling centers;
 - b. Skating rinks;
 - c. Health spas;
 - d. Swimming pools;
 - e. Tennis courts;
 - f. Weight training facilities;
 - g. Fitness and recreational sports centers; and
 - h. Golf courses, both public and private;

regardless of whether the fee paid is per use or in any other form, including but not limited to an initiation fee, monthly fee, membership fee, or combination thereof.
- (b) "Admissions" does not include:
1. Any fee paid to enter or participate in a fishing tournament; or
 2. Any fee paid for the use of a boat ramp for the purpose of allowing boats to be launched into or hauled out from the water;
- (2) "Advertising and promotional direct mail" means direct mail the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this definition, "product" means tangible personal property, an item transferred electronically, or a service;
- (3) "Business" includes any activity engaged in by any person or caused to be engaged in by that person with the object of gain, benefit, or advantage, either direct or indirect;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5) (a) "Cosmetic surgery services" means modifications to all areas of the head, neck, and body to enhance appearance through surgical and medical techniques.
- (b) "Cosmetic surgery services" does not include ***surgery services that are medically necessary to reconstruct or correct dysfunctional areas of the face***~~reconstruction of facial~~ and body~~defects~~ due to birth disorders, trauma, burns, or disease;

- (6) "Department" means the Department of Revenue;
- (7) (a) "Digital audio-visual works" means a series of related images which, when shown in succession, impart an impression of motion, with accompanying sounds, if any.
- (b) "Digital audio-visual works" includes movies, motion pictures, musical videos, news and entertainment programs, and live events.
- (c) "Digital audio-visual works" shall not include video greeting cards, video games, and electronic games;
- (8) (a) "Digital audio works" means works that result from the fixation of a series of musical, spoken, or other sounds.
- (b) "Digital audio works" includes ringtones, recorded or live songs, music, readings of books or other written materials, speeches, or other sound recordings.
- (c) "Digital audio works" shall not include audio greeting cards sent by electronic mail;
- (9) (a) "Digital books" means works that are generally recognized in the ordinary and usual sense as books, including any literary work expressed in words, numbers, or other verbal or numerical symbols or indicia if the literary work is generally recognized in the ordinary or usual sense as a book.
- (b) "Digital books" shall not include digital audio-visual works, digital audio works, periodicals, magazines, newspapers, or other news or information products, chat rooms, or Web logs;
- (10) (a) "Digital code" means a code which provides a purchaser with a right to obtain one (1) or more types of digital property. A "digital code" may be obtained by any means, including electronic mail messaging or by tangible means, regardless of the code's designation as a song code, video code, or book code.
- (b) "Digital code" shall not include a code that represents:
1. A stored monetary value that is deducted from a total as it is used by the purchaser; or
 2. A redeemable card, gift card, or gift certificate that entitles the holder to select specific types of digital property;
- (11) (a) "Digital property" means any of the following which is transferred electronically:
1. Digital audio works;
 2. Digital books;
 3. Finished artwork;
 4. Digital photographs;
 5. Periodicals;
 6. Newspapers;
 7. Magazines;
 8. Video greeting cards;
 9. Audio greeting cards;
 10. Video games;
 11. Electronic games; or
 12. Any digital code related to this property.
- (b) "Digital property" shall not include digital audio-visual works or satellite radio programming;
- (12) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipient.
- (b) "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail retailer for inclusion in the package containing the printed material.
- (c) "Direct mail" does not include multiple items of printed material delivered to a single address;

- (13) "Directly used in the manufacturing or industrial processing process" means the process that commences with the movement of raw materials from storage into a continuous, unbroken, integrated process and ends when the finished product is packaged and ready for sale;
- (14) (a) *"Executive employee recruitment services" means services provided by a person to locate potential candidates to fill open senior-level management positions.*
- (b) *"Executive employee recruitment services" includes but is not limited to making a detailed list of client requirements, researching and identifying potential candidates, performing pre-screening interviews, and providing contract and salary negotiations;*
- (15) (a) "Extended warranty services" means services provided through a service contract agreement between the contract provider and the purchaser where the purchaser agrees to pay compensation for the contract and the provider agrees to repair, replace, support, or maintain tangible personal property, digital property, ~~or~~ real property, *or prewritten computer software access services* according to the terms of the contract.
- (b) "Extended warranty services" does not include the sale of a service contract agreement for tangible personal property to be used by a small telephone utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in KRS 65.7621 to deliver communications services as defined in KRS 136.602 or broadband;
- ~~(16)~~~~(15)~~ (a) "Finished artwork" means final art that is used for actual reproduction by photomechanical or other processes or for display purposes.
- (b) "Finished artwork" includes:
1. Assemblies;
 2. Charts;
 3. Designs;
 4. Drawings;
 5. Graphs;
 6. Illustrative materials;
 7. Lettering;
 8. Mechanicals;
 9. Paintings; and
 10. Paste-ups;
- ~~(17)~~~~(16)~~ (a) "Gross receipts" and "sales price" mean the total amount or consideration, including cash, credit, property, and services, for which tangible personal property, digital property, or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:
1. The retailer's cost of the tangible personal property, digital property, or services sold;
 2. The cost of the materials used, labor or service cost, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, or any other expense of the retailer;
 3. Charges by the retailer for any services necessary to complete the sale;
 4. Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing;
 5. Any amount for which credit is given to the purchaser by the retailer, other than credit for tangible personal property or digital property traded when the tangible personal property or digital property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale; and
 6. The amount charged for labor or services rendered in installing or applying the tangible personal property, digital property, or service sold.

- (b) "Gross receipts" and "sales price" shall include consideration received by the retailer from a third party if:
1. The retailer actually receives consideration from a third party and the consideration is directly related to a price reduction or discount on the sale to the purchaser;
 2. The retailer has an obligation to pass the price reduction or discount through to the purchaser;
 3. The amount of consideration attributable to the sale is fixed and determinable by the retailer at the time of the sale of the item to the purchaser; and
 4. One (1) of the following criteria is met:
 - a. The purchaser presents a coupon, certificate, or other documentation to the retailer to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;
 - b. The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser; or
 - c. The purchaser identifies himself or herself to the retailer as a member of a group or organization entitled to a price reduction or discount. A "preferred customer" card that is available to any patron does not constitute membership in such a group.
- (c) "Gross receipts" and "sales price" shall not include:
1. Discounts, including cash, term, or coupons that are not reimbursed by a third party and that are allowed by a retailer and taken by a purchaser on a sale;
 2. Interest, financing, and carrying charges from credit extended on the sale of tangible personal property, digital property, or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;
 3. Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or
 4. Local alcohol regulatory license fees authorized under KRS 243.075 that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.
- (d) As used in this subsection, "third party" means a person other than the purchaser;
- ~~(18)~~~~(17)~~ "In this state" or "in the state" means within the exterior limits of the Commonwealth and includes all territory within these limits owned by or ceded to the United States of America;
- ~~(19)~~~~(18)~~ "Industrial processing" includes:
- (a) Refining;
 - (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;
 - (c) Mining, quarrying, fabricating, and industrial assembling;
 - (d) The processing and packaging of raw materials, in-process materials, and finished products; and
 - (e) The processing and packaging of farm and dairy products for sale;
- ~~(20)~~~~(19)~~ (a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental shall include future options to:
1. Purchase the property; or
 2. Extend the terms of the agreement and agreements covering trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. sec. 7701(h)(1).
- (b) "Lease or rental" shall not include:

1. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
 2. A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of the required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100) or one percent (1%) of the total required payments; or
 3. Providing tangible personal property and an operator for the tangible personal property for a fixed or indeterminate period of time. To qualify for this exclusion, the operator must be necessary for the equipment to perform as designed, and the operator must do more than maintain, inspect, or setup the tangible personal property.
- (c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;
- (21) (a) ***"Lobbying services" means the act of promoting or securing passage of legislation or an attempt to influence or sway a public official or other public servant toward a desired action, including but not limited to the support of or opposition to a project or the passage, amendment, defeat, approval, or veto of any legislation, regulation, rule, or ordinance;***
- (b) ***"Lobbying services" includes but is not limited to the performance of activities described as executive agency lobbying activities as defined in KRS 11A.201, activities described under the definition of lobby in KRS 6.611, and any similar activities performed at the local, state, or federal levels;***
- ~~(22)~~~~(20)~~ (a) "Machinery for new and expanded industry" means machinery:
1. Directly used in the manufacturing or industrial processing process of:
 - a. Tangible personal property at a plant facility;
 - b. Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030 that includes a retail establishment on the premises; or
 - c. Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040 that includes a retail establishment;
 2. Which is incorporated for the first time into:
 - a. A plant facility established in this state; or
 - b. Licensed premises located in this state; and
 3. Which does not replace machinery in the plant facility or licensed premises unless that machinery purchased to replace existing machinery:
 - a. Increases the consumption of recycled materials at the plant facility by not less than ten percent (10%);
 - b. Performs different functions;
 - c. Is used to manufacture a different product; or
 - d. Has a greater productive capacity, as measured in units of production, than the machinery being replaced.
- (b) "Machinery for new and expanded industry" does not include repair, replacement, or spare parts of any kind, regardless of whether the purchase of repair, replacement, or spare parts is required by the manufacturer or seller as a condition of sale or as a condition of warranty;
- ~~(23)~~~~(21)~~ "Manufacturing" means any process through which material having little or no commercial value for its intended use before processing has appreciable commercial value for its intended use after processing by the machinery;{
- ~~(22)~~ ~~"Marketing services" means developing marketing objectives and policies, sales forecasting, new product developing and pricing, licensing, and franchise planning;}~~
- (24)~~(23)~~ "Marketplace" means any physical or electronic means through which one (1) or more retailers may advertise and sell tangible personal property, digital property, or services, or lease tangible personal property

or digital property, such as a catalog, Internet Web site, or television or radio broadcast, regardless of whether the tangible personal property, digital property, or retailer is physically present in this state;

~~(25)(24)~~ (a) "Marketplace provider" means a person, including any affiliate of the person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of this paragraph as follows:

1. The person directly or indirectly:
 - a. Lists, makes available, or advertises tangible personal property, digital property, or services for sale by a marketplace retailer in a marketplace owned, operated, or controlled by the person;
 - b. Facilitates the sale of a marketplace retailer's product through a marketplace by transmitting or otherwise communicating an offer or acceptance of a retail sale of tangible personal property, digital property, or services between a marketplace retailer and a purchaser in a forum including a shop, store, booth, catalog, Internet site, or similar forum;
 - c. Owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects marketplace retailers to purchasers for the purpose of making retail sales of tangible personal property, digital property, or services;
 - d. Provides a marketplace for making retail sales of tangible personal property, digital property, or services, or otherwise facilitates retail sales of tangible personal property, digital property, or services, regardless of ownership or control of the tangible personal property, digital property, or services, that are the subject of the retail sale;
 - e. Provides software development or research and development activities related to any activity described in this subparagraph, if the software development or research and development activities are directly related to the physical or electronic marketplace provided by a marketplace provider;
 - f. Provides or offers fulfillment or storage services for a marketplace retailer;
 - g. Sets prices for a marketplace retailer's sale of tangible personal property, digital property, or services;
 - h. Provides or offers customer service to a marketplace retailer or a marketplace retailer's customers, or accepts or assists with taking orders, returns, or exchanges of tangible personal property, digital property, or services sold by a marketplace retailer; or
 - i. Brands or otherwise identifies sales as those of the marketplace provider; and
2. The person directly or indirectly:
 - a. Collects the sales price or purchase price of a retail sale of tangible personal property, digital property, or services;
 - b. Provides payment processing services for a retail sale of tangible personal property, digital property, or services;
 - c. Through terms and conditions, agreements, or arrangements with a third party, collects payment in connection with a retail sale of tangible personal property, digital property, or services from a purchaser and transmits that payment to the marketplace retailer, regardless of whether the person collecting and transmitting the payment receives compensation or other consideration in exchange for the service; or
 - d. Provides a virtual currency that purchasers are allowed or required to use to purchase tangible personal property, digital property, or services.

(b) "Marketplace provider" includes but is not limited to a person that satisfies the requirements of this subsection through the ownership, operation, or control of a digital distribution service, digital distribution platform, online portal, or application store;

~~(26)(25)~~ "Marketplace retailer" means a seller that makes retail sales through any marketplace owned, operated, or controlled by a marketplace provider;

- ~~(27)~~~~(26)~~ (a) "Occasional sale" includes:
1. A sale of tangible personal property or digital property not held or used by a seller in the course of an activity for which he or she is required to hold a seller's permit, provided such sale is not one (1) of a series of sales sufficient in number, scope, and character to constitute an activity requiring the holding of a seller's permit. In the case of the sale of the entire, or a substantial portion of the nonretail assets of the seller, the number of previous sales of similar assets shall be disregarded in determining whether or not the current sale or sales shall qualify as an occasional sale; or
 2. Any transfer of all or substantially all the tangible personal property or digital property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.
- (b) For the purposes of this subsection, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the tangible personal property or digital property of such corporation or other entity;
- ~~(28)~~~~(27)~~ (a) "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether advertising and promotional direct mail is included in the same mailing.
- (b) "Other direct mail" includes but is not limited to:
1. Transactional direct mail that contains personal information specific to the addressee, including but not limited to invoices, bills, statements of account, and payroll advices;
 2. Any legally required mailings, including but not limited to privacy notices, tax reports, and stockholder reports; and
 3. Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents, including but not limited to newsletters and informational pieces.
- (c) "Other direct mail" does not include the development of billing information or the provision of any data processing service that is more than incidental to the production of printed material;
- ~~(29)~~~~(28)~~ "Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;
- ~~(30)~~~~(29)~~ "Permanent," as the term applies to digital property, means perpetual or for an indefinite or unspecified length of time;
- ~~(31)~~~~(30)~~ (a) "Photography and photofinishing services" means:
1. The taking, developing, or printing of an original photograph; or
 2. Image editing, including shadow removal, tone adjustments, vertical and horizontal alignment and cropping, composite image creation, formatting, watermarking printing, and delivery of an original photograph in the form of tangible personal property, digital property, or other media.
- (b) "Photography and photofinishing services" does not include photography services necessary for medical or dental health;
- ~~(32)~~~~(31)~~ "Plant facility" means a single location that is exclusively dedicated to manufacturing or industrial processing activities. A location shall be deemed to be exclusively dedicated to manufacturing or industrial processing activities even if retail sales are made there, provided that the retail sales are incidental to the manufacturing or industrial processing activities occurring at the location. The term "plant facility" shall not include any restaurant, grocery store, shopping center, or other retail establishment;
- ~~(33)~~~~(32)~~ (a) "Prewritten computer software" means:
1. Computer software, including prewritten upgrades, that are not designed and developed by the author or other creator to the specifications of a specific purchaser;
 2. Software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the original purchaser; or
 3. Any portion of prewritten computer software that is modified or enhanced in any manner, where the modification or enhancement is designed and developed to the specifications of a specific

purchaser, unless there is a reasonable, separately stated charge on an invoice or other statement of the price to the purchaser for the modification or enhancement.

- (b) When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of the modifications or enhancements the person actually made.
 - (c) The combining of two (2) or more prewritten computer software programs or portions thereof does not cause the combination to be other than prewritten computer software;
- ~~(34)~~~~(33)~~ "Prewritten computer software access services" means the right of access to prewritten computer software where the object of the transaction is to use the prewritten computer software while possession of the prewritten computer software is maintained by the seller or a third party, wherever located, regardless of whether the charge for the access or use is on a per use, per user, per license, subscription, or some other basis;
- ~~(35)~~~~(34)~~ (a) "Purchase" means any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:
- 1. Tangible personal property;
 - 2. An extended warranty service;
 - 3. Digital property transferred electronically; or
 - 4. Services included in KRS 139.200;
- for a consideration.
- (b) "Purchase" includes:
- 1. When performed outside this state or when the customer gives a resale certificate, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting;
 - 2. A transaction whereby the possession of tangible personal property or digital property is transferred but the seller retains the title as security for the payment of the price; and
 - 3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the customer, or of any publication;
- ~~(36)~~~~(35)~~ "Recycled materials" means materials which have been recovered or diverted from the solid waste stream and reused or returned to use in the form of raw materials or products;
- ~~(37)~~~~(36)~~ "Recycling purposes" means those activities undertaken in which materials that would otherwise become solid waste are collected, separated, or processed in order to be reused or returned to use in the form of raw materials or products;
- ~~(38)~~~~(37)~~ "Remote retailer" means a retailer with no physical presence in this state;
- ~~(39)~~~~(38)~~ (a) "Repair, replacement, or spare parts" means any tangible personal property used to maintain, restore, mend, or repair machinery or equipment.
- (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or industrial tools;
- ~~(40)~~~~(39)~~ (a) "Retailer" means:
- 1. Every person engaged in the business of making retail sales of tangible personal property, digital property, or furnishing any services in a retail sale included in KRS 139.200;
 - 2. Every person engaged in the business of making sales at auction of tangible personal property or digital property owned by the person or others for storage, use or other consumption, except as provided in paragraph (c) of this subsection;
 - 3. Every person making more than two (2) retail sales of tangible personal property, digital property, or services included in KRS 139.200 during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;

4. Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during the meeting.
- (b) When the department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property, digital property, or services sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers, the department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.
- (c) 1. Any person making sales at a charitable auction for a qualifying entity shall not be a retailer for purposes of the sales made at the charitable auction if:
- a. The qualifying entity, not the person making sales at the auction, is sponsoring the auction;
 - b. The purchaser of tangible personal property at the auction directly pays the qualifying entity sponsoring the auction for the property and not the person making the sales at the auction; and
 - c. The qualifying entity, not the person making sales at the auction, is responsible for the collection, control, and disbursement of the auction proceeds.
2. If the conditions set forth in subparagraph 1. of this paragraph are met, the qualifying entity sponsoring the auction shall be the retailer for purposes of the sales made at the charitable auction.
3. For purposes of this paragraph, "qualifying entity" means a resident:
- a. Church;
 - b. School;
 - c. Civic club; or
 - d. Any other nonprofit charitable, religious, or educational organization;
- ~~(41)~~~~(40)~~ "Retail sale" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent;
- ~~(42)~~~~(41)~~ (a) "Ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.
- (b) "Ringtones" shall not include ringback tones or other digital files that are not stored on the purchaser's communications device;
- ~~(43)~~~~(42)~~ (a) "Sale" means:
1. The furnishing of any services included in KRS 139.200;
 2. Any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:
 - a. Tangible personal property; or
 - b. Digital property transferred electronically;
 for a consideration.
- (b) "Sale" includes but is not limited to:
1. The producing, fabricating, processing, printing, or imprinting of tangible personal property or digital property for a consideration for purchasers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing, or imprinting;
 2. A transaction whereby the possession of tangible personal property or digital property is transferred, but the seller retains the title as security for the payment of the price; and
 3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the purchaser.

- (c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;
- ~~(44)~~~~(43)~~ "Seller" includes every person engaged in the business of selling tangible personal property, digital property, or services of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, and every person engaged in making sales for resale;
- ~~(45)~~~~(44)~~ (a) "Storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property,~~[-or]~~ digital property, **or prewritten computer software access services** purchased from a retailer.
- (b) "Storage" does not include the keeping, retaining, or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state;
- ~~(46)~~~~(45)~~ "Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses and includes natural, artificial, and mixed gas, electricity, water, steam, and prewritten computer software;
- ~~(47)~~~~(46)~~ "Taxpayer" means any person liable for tax under this chapter;
- ~~(48)~~~~(47)~~ "Telemarketing services" means services provided via telephone, facsimile, electronic mail, **text messages**, or other modes of communications, **including but not limited to various forms of social media**, to another person, which are unsolicited by that person, for the purposes of:
- (a) 1. Promoting products or services;
2. Taking orders; or
3. Providing information or assistance regarding the products or services; or
- (b) Soliciting contributions;
- ~~(49)~~~~(48)~~ "Transferred electronically" means accessed or obtained by the purchaser by means other than tangible storage media; and
- ~~(50)~~~~(49)~~ (a) "Use" includes the exercise of:
1. Any right or power over tangible personal property or digital property incident to the ownership of that property, or by any transaction in which possession is given, or by any transaction involving digital property or tangible personal property where the right of access is granted; or
2. Any right or power to benefit **from** any services subject to tax under KRS 139.200(2)(p) to ~~(ax)~~~~(ay)~~.
- (b) "Use" does not include the keeping, retaining, or exercising any right or power over:
1. Tangible personal property or digital property for the purpose of:
- ~~a.~~~~1.~~ Selling tangible personal property or digital property in the regular course of business; or
- ~~b.~~~~2.~~ Subsequently transporting tangible personal property outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state; **or**
2. **Prewritten computer software access services purchased for use outside the state and transferred electronically outside the state for use thereafter solely outside the state.**

➔Section 7. KRS 139.200 is amended to read as follows:

A tax is hereby imposed upon all retailers at the rate of six percent (6%) of the gross receipts derived from:

- (1) Retail sales of:
- (a) Tangible personal property, regardless of the method of delivery, made within this Commonwealth; and
- (b) Digital property regardless of whether:

1. The purchaser has the right to permanently use the property;
 2. The purchaser's right to access or retain the property is not permanent; or
 3. The purchaser's right of use is conditioned upon continued payment; and
- (2) The furnishing of the following services:
- (a) The rental of any room or rooms, lodgings, campsites, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or any other place in which rooms, lodgings, campsites, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply to rooms, lodgings, campsites, or accommodations supplied for a continuous period of thirty (30) days or more to a person;
 - (b) Sewer services;
 - (c) The sale of admissions, except:
 1. Admissions to enter the grounds or enclosure of any track licensed under KRS Chapter 230 at which live horse racing or historical horse racing is being conducted under the jurisdiction of the Kentucky Horse Racing Commission;
 2. Admissions taxed under KRS 229.031;
 3. Admissions that are charged by nonprofit educational, charitable, or religious institutions and for which an exemption is provided under KRS 139.495; and
 4. Admissions that are charged by nonprofit civic, governmental, or other nonprofit organizations and for which an exemption is provided under KRS 139.498;
 - (d) Prepaid calling service and prepaid wireless calling service;
 - (e) Intrastate, interstate, and international communications services as defined in KRS 139.195, except the furnishing of pay telephone service as defined in KRS 139.195;
 - (f) Distribution, transmission, or transportation services for natural gas that is for storage, use, or other consumption in this state, excluding those services furnished:
 1. For natural gas that is classified as residential use as provided in KRS 139.470(7); or
 2. To a seller or reseller of natural gas;
 - (g) Landscaping services, including but not limited to:
 1. Lawn care and maintenance services;
 2. Tree trimming, pruning, or removal services;
 3. Landscape design and installation services;
 4. Landscape care and maintenance services; and
 5. Snow plowing or removal services;
 - (h) Janitorial services, including but not limited to residential and commercial cleaning services, and carpet, upholstery, and window cleaning services;
 - (i) Small animal veterinary services, excluding veterinary services for equine, cattle, poultry, swine, sheep, goats, llamas, alpacas, ratite birds, buffalo, and cervids;
 - (j) Pet care services, including but not limited to grooming and boarding services, pet sitting services, and pet obedience training services;
 - (k) Industrial laundry services, including but not limited to industrial uniform supply services, protective apparel supply services, and industrial mat and rug supply services;
 - (l) Non-coin-operated laundry and dry cleaning services;
 - (m) Linen supply services, including but not limited to table and bed linen supply services and nonindustrial uniform supply services;
 - (n) Indoor skin tanning services, including but not limited to tanning booth or tanning bed services and spray tanning services;

- (o) Non-medical diet and weight reducing services;
- (p) Extended warranty services;
- (q) Photography and photofinishing services;
- (r) ~~Marketing services;~~
- ~~(s)~~ Telemarketing services;
- ~~(s)~~~~(t)~~ Public opinion and research polling services;
- ~~(t)~~~~(u)~~ Lobbying services;
- ~~(u)~~~~(v)~~ Executive employee recruitment services;
- ~~(v)~~~~(w)~~ Web site design and development services;
- ~~(w)~~~~(x)~~ Web site hosting services;
- ~~(x)~~~~(y)~~ Facsimile transmission services;
- ~~(y)~~~~(z)~~ Private mailroom services, including:
 1. Presorting mail and packages by postal code;
 2. Address barcoding;
 3. Tracking;
 4. Delivery to postal service; and
 5. Private mailbox rentals;
- ~~(z)~~~~(aa)~~ Bodyguard services;
- ~~(aa)~~~~(ab)~~ Residential and nonresidential security system monitoring services, *excluding separately stated onsite security guard services*;
- ~~(ab)~~~~(ac)~~ Private investigation services;
- ~~(ac)~~~~(ad)~~ Process server services;
- ~~(ad)~~~~(ae)~~ Repossession of tangible personal property services;
- ~~(ae)~~~~(af)~~ Personal background check services;
- ~~(af)~~~~(ag)~~ Parking services;
 1. Including:
 - a. Valet services; and
 - b. The use of parking lots and parking structures; but
 2. Excluding any parking services at an educational institution;
- ~~(ag)~~~~(ah)~~ Road and travel services provided by automobile clubs as defined in KRS 281.010;
- ~~(ah)~~~~(ai)~~ Condominium time-share exchange services;
- ~~(ai)~~~~(aj)~~ Rental of space for meetings, conventions, short-term business uses, entertainment events, weddings, banquets, parties, and other short-term social events;
- ~~(aj)~~~~(ak)~~ Social event planning and coordination services;
- ~~(ak)~~~~(al)~~ Leisure, recreational, and athletic instructional services;
- ~~(al)~~~~(am)~~ Recreational camp tuition and fees;
- ~~(am)~~~~(an)~~ Personal fitness training services;
- ~~(an)~~~~(ao)~~ Massage services, except when medically necessary;
- ~~(ao)~~~~(ap)~~ Cosmetic surgery services;

- (ap)~~(aq)~~ Body modification services, including tattooing, piercing, scarification, branding, tongue splitting, transdermal and subdermal implants, ear pointing, teeth pointing, and any other modifications that are not necessary for medical or dental health;
- (aq)~~(ar)~~ **Laboratory** testing services, **excluding laboratory**~~except~~ testing:
1. For medical, educational, or veterinary reasons; *or*
 2. **Required by a federal, state, or local statute, regulation, court order, or other government-related requirement;**
- (ar)~~(as)~~ Interior decorating and design services;
- (as)~~(at)~~ Household moving services;
- (at)~~(au)~~ Specialized design services, including the design of clothing, costumes, fashion, furs, jewelry, shoes, textiles, and lighting;
- (au)~~(av)~~ Lapidary services, including cutting, polishing, and engraving precious stones;
- (av)~~(aw)~~ Labor and services to repair or maintain commercial refrigeration equipment and systems when no tangible personal property is sold in that transaction including service calls and trip charges;
- (aw)~~(ax)~~ Labor to repair or alter apparel, footwear, watches, or jewelry when no tangible personal property is sold in that transaction; and
- (ax)~~(ay)~~ Prewritten computer software access services.

➔Section 8. KRS 139.202 is amended to read as follows:

Excluded from the additional taxable services imposed by KRS 139.200(2)(q) to (ax)~~(ay)~~ are gross receipts derived from:

- (1) Sales of the services in fulfillment of a lump-sum, fixed-fee contract or a fixed price sales contract executed on or before February 25, 2022; and
- (2) A lease or rental agreement entered into on or before February 25, 2022.

➔Section 9. KRS 139.260 is amended to read as follows:

For the purpose of the proper administration of this chapter and to prevent evasion of the duty to collect the taxes imposed by KRS 139.200 and 139.310, it shall be presumed that all gross receipts and all tangible personal property, digital property, and services sold by any person for delivery or access in this state are subject to the tax until the contrary is established. The burden of proving the contrary is upon the person who makes the sale of:

- (1) (a) Except as provided in paragraph (b) of this subsection, tangible personal property or digital property unless the person takes from the purchaser a certificate to the effect that the property is either:
 1. Purchased for resale according to the provisions of KRS 139.270;
 2. Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; or
 3. Purchased according to administrative regulations promulgated by the department governing a direct pay authorization; or
- (b) Tangible personal property to a purchaser claiming an agriculture exemption under KRS 139.480(4) to (9), (11), (13) to (15), ~~(or) (23) to (30)~~, **or (33)** unless the person obtains from the purchaser an agriculture exemption license number or a fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption that contains an agriculture exemption license number in accordance with KRS 139.270;
- (2) A service included in KRS 139.200(2)(a) to (f) unless the person takes from the purchaser a certificate to the effect that the service is purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; and
- (3) A service included in KRS 139.200(2)(g) to (ax)~~(ay)~~ unless the person takes from the purchaser a certificate to the effect that the service is:
 - (a) Purchased for resale according to KRS 139.270;

- (b) Purchased through a fully completed certificate of exemption or fully completed Streamlined Sales and Use Tax Agreement Certificate of Exemption in accordance with KRS 139.270; or
- (c) Purchased according to administrative regulations promulgated by the department governing a direct pay authorization.

➔Section 10. KRS 139.310 is amended to read as follows:

- (1) An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property, digital property, and services listed under KRS 139.200(2)(p) to ~~(ax)~~~~(ay)~~ purchased for storage, use, or other consumption in this state at the rate of six percent (6%) of the sales price.
- (2) The excise tax applies to the purchase of digital property regardless of whether:
 - (a) The purchaser has the right to permanently use the goods;
 - (b) The purchaser's right to access or retain the digital property is not permanent; or
 - (c) The purchaser's right of use is conditioned upon continued payment.

➔Section 11. KRS 139.340 is amended to read as follows:

- (1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state shall collect the tax imposed by KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the department. The taxes collected or required to be collected by the retailer under this section shall be deemed to be held in trust for and on account of the Commonwealth.
- (2) "Retailer engaged in business in this state" as used in KRS 139.330 and this section includes any of the following:
 - (a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary or any other related entity, representative, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business. Property owned by a person who has contracted with a printer for printing, which consists of the final printed product, property which becomes a part of the final printed product, or copy from which the printed product is produced, and which is located at the premises of the printer, shall not be deemed to be an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business maintained, occupied, or used by the person;
 - (b) Any retailer having any representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property, digital property, or any services subject to tax under KRS 139.200(2)(p) to ~~(ax)~~~~(ay)~~. An unrelated printer with which a person has contracted for printing shall not be deemed to be a representative, agent, salesman, canvasser, or solicitor for the person;
 - (c) Any retailer soliciting orders for tangible personal property, digital property, or any services subject to tax under KRS 139.200(2)(p) to ~~(ax)~~~~(ay)~~ from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media, or other facility or service located in this state;
 - (d) Any retailer deriving receipts from the lease or rental of tangible personal property situated in this state;
 - (e) Any retailer soliciting orders for tangible personal property, digital property, or any services subject to tax under KRS 139.200(2)(p) to ~~(ax)~~~~(ay)~~ from residents of this state on a continuous, regular, systematic basis if the retailer benefits from an agent or representative operating in this state under the authority of the retailer to repair or service tangible personal property or digital property sold by the retailer;
 - (f) Any retailer located outside Kentucky that uses a representative in Kentucky, either full-time or part-time, if the representative performs any activities that help establish or maintain a marketplace for the retailer, including receiving or exchanging returned merchandise; or
 - (g) 1. Any remote retailer selling tangible personal property or digital property delivered or transferred electronically to a purchaser in this state, including retail sales facilitated by a marketplace provider on behalf of the remote retailer, if:

- a. The remote retailer sold tangible personal property or digital property that was delivered or transferred electronically to a purchaser in this state in two hundred (200) or more separate transactions in the previous calendar year or the current calendar year; or
 - b. The remote retailer's gross receipts derived from the sale of tangible personal property or digital property delivered or transferred electronically to a purchaser in this state in the previous calendar year or current calendar year exceeds one hundred thousand dollars (\$100,000).
2. Any remote retailer that meets either threshold provided in subparagraph 1. of this paragraph shall register for a sales and use tax permit and collect the tax imposed by KRS 139.310 from the purchaser no later than the first day of the calendar month that is at the most sixty (60) days after either threshold is reached.

➔Section 12. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

- (1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property or digital property which this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;
- (2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:
 - (a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and
 - (b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

- (3) Gross receipts from occasional sales of tangible personal property or digital property and the storage, use, or other consumption in this state of tangible personal property or digital property, the transfer of which to the purchaser is an occasional sale;
- (4) Gross receipts from sales of tangible personal property to a common carrier, shipped by the retailer via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;
- (5) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the department. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;
- (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases of tangible personal property, digital property, or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants;
- (7)
 - (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses if the sewer services, water, and fuel are purchased and declared by the resident as used in his or her place of domicile.
 - (b) As used in this subsection:
 1. "Fuel" shall include but not be limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood; and
 2. "Place of domicile" means the place where an individual has his or her legal, true, fixed, and permanent home and principal establishment, and to which, whenever the individual is absent, the individual has the intention of returning.

- (c) Determinations of eligibility for the exemption shall be made by the department.
 - (d) The exemption shall apply ~~to if~~ charges for sewer service, water, and fuel ~~are~~ billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park if the **owner or operator declares that the** sewer services, water, and fuel are purchased for ~~and declared by the~~ Kentucky ~~residents to be~~ ~~resident as~~ used in **the resident's** ~~his or her~~ place of domicile.
 - (e) The exemption shall apply also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years if the sewer services, water, and fuel are purchased for and declared by the Kentucky resident as used in his or her place of domicile;
- (8) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the retailer and the retailer maintains a file of the proof;
- (9) (a) Gross receipts derived from the sale of tangible personal property, as provided in paragraph (b) of this subsection, to a manufacturer or industrial processor if the property is to be directly used in the manufacturing or industrial processing process of:
- 1. Tangible personal property at a plant facility;
 - 2. Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030 that includes a retail establishment on the premises; or
 - 3. Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040 that includes a retail establishment;
- and which will be for sale.
- (b) The following tangible personal property shall qualify for exemption under this subsection:
- 1. Materials which enter into and become an ingredient or component part of the manufactured product;
 - 2. Other tangible personal property which is directly used in the manufacturing or industrial processing process, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:
 - a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below;
 - b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, and explosives. The supplies indicated above need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind; and
 - c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, and cutting blades. Normally, for industrial tools to be considered directly used in the manufacturing or industrial processing process, they shall come into direct contact with the product being manufactured or processed; and
 - 3. Materials and supplies that are not reusable in the same manufacturing or industrial processing process at the completion of a single manufacturing or processing cycle. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.
- (c) The property described in paragraph (b) of this subsection shall be regarded as having been purchased for resale.
- (d) For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity, and the

person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

- (e) The exemption provided in this subsection does not include repair, replacement, or spare parts;
- (10) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;
 - (11) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is retailer's shipping point or purchaser's destination.
 - (a) As used in this subsection:
 - 1. "Catalogs" means tangible personal property that is printed to the special order of the purchaser and composed substantially of information regarding goods and services offered for sale; and
 - 2. "Newspaper inserts" means printed materials that are placed in or distributed with a newspaper of general circulation.
 - (b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;
 - (12) Gross receipts from the sale of water used in the raising of equine as a business;
 - (13) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.
 - (a) As used in this subsection, "metal retail fixtures" means check stands and belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.
 - (b) The retailer shall be responsible for establishing that delivery was made to a non-Kentucky location through shipping documents or other credible evidence as determined by the department;
 - (14) Gross receipts from the sale of unenriched or enriched uranium purchased for ultimate storage, use, or other consumption outside this state and delivered to a common carrier in this state for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer, or is an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or purchaser's destination;
 - (15) Amounts received from a tobacco buydown. As used in this subsection, "buydown" means an agreement whereby an amount, whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco products sold at retail that requires the retailer to reduce the selling price of the product to the purchaser without the use of a manufacturer's or wholesaler's coupon or redemption certificate;
 - (16) Gross receipts from the sale of tangible personal property or digital property returned by a purchaser when the full sales price is refunded either in cash or credit. This exclusion shall not apply if the purchaser, in order to obtain the refund, is required to purchase other tangible personal property or digital property at a price greater than the amount charged for the property that is returned;
 - (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;
 - (18) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any manufacturer's excise or import duty;
 - (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is:
 - (a) Sold to a Kentucky resident, registered for use on the public highways, and upon which any applicable tax levied by KRS 138.460 has been paid; or

- (b) Sold to a nonresident of Kentucky if the nonresident registers the motor vehicle in a state that:
 - 1. Allows residents of Kentucky to purchase motor vehicles without payment of that state's sales tax at the time of sale; or
 - 2. Allows residents of Kentucky to remove the vehicle from that state within a specific period for subsequent registration and use in Kentucky without payment of that state's sales tax;
- (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17);
- (21) Gross receipts from the collection of:
 - (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
 - (b) The charge imposed by KRS 65.7629(3);
 - (c) The fee imposed by KRS 65.7634; and
 - (d) The service charge imposed by KRS 65.7636;
- (22) Gross receipts derived from charges for labor or services to apply, install, repair, or maintain tangible personal property directly used in manufacturing or industrial processing process of:
 - (a) Tangible personal property at a plant facility;
 - (b) Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030; or
 - (c) Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040;

that is not otherwise exempt under subsection (9) of this section or KRS 139.480(10), if the charges for labor or services are separately stated on the invoice, bill of sale, or similar document given to purchaser;
- (23) (a) For persons selling services included in KRS 139.200(2)(g) to (p) prior to January 1, 2019, gross receipts derived from the sale of those services if the gross receipts were less than six thousand dollars (\$6,000) during calendar year 2018. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:
 - 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that calendar year; and
 - 2. All gross receipts are subject to tax in subsequent calendar years.
- (b) For persons selling services included in KRS 139.200(2)(q) to ~~(ax)~~~~(ay)~~ prior to January 1, 2023, gross receipts derived from the sale of those services if the gross receipts were less than six thousand dollars (\$6,000) during calendar year 2021. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:
 - 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that calendar year; and
 - 2. All gross receipts are subject to tax in subsequent calendar years.
- (c) The exemption provided in this subsection shall not apply to a person also engaged in the business of selling tangible personal property, digital property, or services included in KRS 139.200(2)(a) to (f); and
- (24) (a) For persons that first begin making sales of services included in KRS 139.200(2)(g) to (p) on or after January 1, 2019, gross receipts derived from the sale of those services if the gross receipts are less than six thousand dollars (\$6,000) within the first calendar year of operation. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:
 - 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that calendar year; and
 - 2. All gross receipts are subject to tax in subsequent calendar years.
- (b) For persons that first begin making sales of services included in KRS 139.200(2)(q) to ~~(ax)~~~~(ay)~~ on or after January 1, 2023, gross receipts derived from the sale of those services if the gross receipts are less than six thousand dollars (\$6,000) within the first calendar year of operation. When gross receipts from these services exceed six thousand dollars (\$6,000) in a calendar year:

1. All gross receipts over six thousand dollars (\$6,000) are taxable in that calendar year; and
 2. All gross receipts are subject to tax in subsequent calendar years.
- (c) The exemption provided in this subsection shall not apply to a person that is also engaged in the business of selling tangible personal property, digital property, or services included in KRS 139.200(2)(a) to (f).

➔Section 13. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

- (1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;
- (2) Coal for the manufacture of electricity;
- (3)
 - (a) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining and any related distribution, transmission, and transportation services for this energy that are billed to the user, to the extent that the cost of the energy or energy-producing fuels used, and related distribution, transmission, and transportation services for this energy that are billed to the user exceed three percent (3%) of the cost of production.
 - (b) Cost of production shall be computed on the basis of a plant facility, which shall include all operations within the continuous, unbroken, integrated manufacturing or industrial processing process that ends with a product packaged and ready for sale.
 - (c) A person who performs a manufacturing or industrial processing activity for a fee and does not take ownership of the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity is a toller. For periods on or after July 1, 2018, the costs of the tangible personal property shall be excluded from the toller's cost of production at a plant facility with tolling operations in place as of July 1, 2018.
 - (d) For plant facilities that begin tolling operations after July 1, 2018, the costs of tangible personal property shall be excluded from the toller's cost of production if the toller:
 1. Maintains a binding contract for periods after July 1, 2018, that governs the terms, conditions, and responsibilities with a separate legal entity, which holds title to the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity;
 2. Maintains accounting records that show the expenses it incurs to fulfill the binding contract that include but are not limited to energy or energy-producing fuels, materials, labor, procurement, depreciation, maintenance, taxes, administration, and office expenses;
 3. Maintains separate payroll, bank accounts, tax returns, and other records that demonstrate its independent operations in the performance of its tolling responsibilities;
 4. Demonstrates one (1) or more substantial business purposes for the tolling operations germane to the overall manufacturing, industrial processing activities, or corporate structure at the plant facility. A business purpose is a purpose other than the reduction of sales tax liability for the purchases of energy and energy-producing fuels; and
 5. Provides information to the department upon request that documents fulfillment of the requirements in subparagraphs 1. to 4. of this paragraph and gives an overview of its tolling operations with an explanation of how the tolling operations relate and connect with all other manufacturing or industrial processing activities occurring at the plant facility;
- (4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;
- (5) Poultry for use in breeding or egg production;
- (6) Farm work stock for use in farming operations;

- (7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;
- (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;
- (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;
- (10) Machinery for new and expanded industry;
- (11) Farm machinery. As used in this section, the term "farm machinery":
 - (a) Means machinery used exclusively and directly in the occupation of:
 1. Tilling the soil for the production of crops as a business;
 2. Raising and feeding livestock or poultry for sale; or
 3. Producing milk for sale;
 - (b) Includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used, including but not limited to combine header wagons, combine header trailers, or any other implements specifically designed and used to move or transport a combine head; and
 - (c) Does not include:
 1. Automobiles;
 2. Trucks;
 3. Trailers, except combine header trailers; or
 4. Truck-trailer combinations;
- (12) Tombstones and other memorial grave markers;
- (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:
 - (a) Operate farm machinery as defined in subsection (11) of this section;
 - (b) Operate on-farm grain or soybean drying facilities as defined in subsection (13) of this section;
 - (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of this section;
 - (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
 - (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this section; or
 - (f) Operate on-farm dairy facilities;

- (16) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;
- (17) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- (19) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (20)
 - (a)
 - 1. Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures as part of an approved supplemental project, as defined by KRS 154.26-010; and
 - 2. Materials, supplies, and repair or replacement parts purchased for use in the operation and maintenance of a blast furnace and related carbon steel-making operations as part of an approved supplemental project, as defined by KRS 154.26-010.
 - (b) The exemptions provided in this subsection shall be effective for sales made:
 - 1. On and after July 1, 2018; and
 - 2. During the term of a supplemental project agreement entered into pursuant to KRS 154.26-090;
- (21) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;
- (22) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;
- (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:
 - (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (24) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;
- (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:
 - (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the

- exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (26) Baling twine and baling wire for the baling of hay and straw;
- (27) Water sold to a person regularly engaged in the business of farming and used in the:
- (a) Production of crops;
 - (b) Production of milk for sale; or
 - (c) Raising and feeding of:
 1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or
 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- (28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (29) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Water;
 - (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - (d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquefied petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
 - (c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

- (b) Repair or replacement parts for the direct operation and maintenance of a motor vehicle operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281, or under similar authority granted by the United States Department of Transportation; and
 - (c) For the purposes of this subsection, "repair or replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair or replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes;
- (32) Food donated by a retail food establishment or any other entity regulated under KRS 217.127 to a nonprofit organization for distribution to the needy; ~~and~~
- (33) Drugs and over-the counter drugs, as defined in KRS 139.472, that are purchased by a person regularly engaged in the business of farming and used in the treatment of cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas, buffalo, aquatic organisms, or cervids;
- (34) (a) ***Building materials, fixtures, or supplies purchased by a construction contractor if:***
- 1. ***Fulfilled by a construction contract for a sewer or water project with:***
 - a. ***A municipally owned water utility organized under KRS Chapter 96;***
 - b. ***A water district or water commission formed or organized under KRS Chapter 74;***
 - c. ***A sanitation district established under KRS Chapter 220 or formed pursuant to KRS Chapter 65;***
 - d. ***A nonprofit corporation created under KRS 58.180 to act on behalf of a governmental agency in the acquisition and financing of public projects;***
 - e. ***Regional wastewater commissions formed under KRS Chapter 278;***
 - f. ***A municipally owned joint sewer agency formed under KRS Chapter 76; or***
 - g. ***Any other governmental agency; and***
 - 2. ***The building materials, fixtures, or supplies:***
 - a. ***Will be permanently incorporated into a structure or improvement to real property, or will be completely consumed, in fulfilling a construction contract for the purpose of furnishing water or sewer services to the general public; and***
 - b. ***Would be exempt if purchased directly by the entities listed in subparagraph 1. of this paragraph.***
- (b) ***As used in this subsection, "construction contract" means a:***
- 1. ***Lump sum contract;***
 - 2. ***Cost plus contract;***
 - 3. ***Materials only contract;***
 - 4. ***Labor and materials contract; or***
 - 5. ***Any other type of contract.***
- (c) ***The exemption provided in this subsection shall apply without regard to the payment arrangement between the construction contractor, the retailer, and the entities listed in paragraph (a)1. of this subsection or to the place of delivery for the building materials, fixtures, or supplies;***
- (35) (a) ***On or after February 25, 2022, the rental of space for meetings, conventions, short-term business uses, entertainment events, weddings, banquets, parties, and other short-term social events, as referenced in Section 7 of this Act, if the tax established in Section 7 of this Act, is paid by the primary lessee to the lessor.***
- (b) ***For the purpose of this subsection, "primary lessee" means the person who leases the space and who has a contract with the lessor of the space only if:***

1. *The contract between the lessor and the lessee specifies that the lessee may sublease, subrent, or otherwise sell the space; and*
 2. *The space is then sublet, subrented, or otherwise sold to exhibitors, vendors, sponsors, or other entities and persons who will use the space associated with the event to be conducted under the primary lease; and*
- (36) *Prewritten computer software access services sold to or purchased by a retailer that develops prewritten computer software for print technology and uses and sells prewritten computer software access services for print technology.*

➔Section 14. KRS 139.481 is amended to read as follows:

- (1) On and after January 1, 2023, every person claiming an exemption provided under KRS 139.480(4) to (9), ~~[KRS 139.480](11), [KRS 139.480](13) to (15), [and KRS 139.480](23) to (30), and (33)~~ shall provide to the seller or retailer a valid agriculture exemption license number issued by the department.
- (2) A person is eligible to apply for an agriculture exemption license number if the person is:
 - (a) Regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business;
 - (b) Regularly engaged in the occupation of raising and feeding livestock of a kind the products of which ordinarily constitute food for human consumption;
 - (c) Raising and feeding poultry;
 - (d) Producing milk for sale; or
 - (e) Regularly engaged in raising ratite birds, llamas, alpacas, buffalos, cervids, or aquatic organisms as an agricultural pursuit.
- (3)
 - (a) On and after January 1, 2023, persons that receive an agriculture exemption license number and choose to claim the exemptions outlined in subsection (1) of this section shall, at least one (1) time, provide the seller or retailer from whom they purchase exempt tangible personal property with one (1) of the following:
 1. The agriculture exemption license number issued by the department; or
 2. A fully completed Streamlined Sales Tax Certificate of Exemption which shall include the agriculture exemption license number.
 - (b) A purchaser that has met the requirements of paragraph (a) of this subsection may issue the agriculture exemption license number to the seller or retailer for subsequent purchases as evidence of an exempt purchase for as long as the agriculture exemption license number is valid.
 - (c) Persons that meet the requirements of subsection (2) of this section but have not yet received an agriculture exemption license number from the department prior to January 1, 2023, may issue a fully completed exemption certificate or a fully completed Streamlined Sales Tax Certificate of Exemption without the agriculture exemption license number prior to January 1, 2023.
- (4)
 - (a) The department, by administrative regulation, shall develop an application form for the agriculture exemption license number and procedures by which the application form may also be submitted either electronically or by paper filing.
 - (b) The application shall include:
 1. The person's name and mailing address;
 2. The farm address, if different from the person's mailing address;
 3. An affirmation that the person meets at least one (1) of the criteria outlined in subsection (2) of this section;
 4. The person's driver's license number; and
 5. One (1) of the following forms of documentation:
 - a. IRS Schedule F, Profit or Loss from Farming;
 - b. IRS Form 4835, Farm Rental Income and Expenses;

- c. The farm service agency number or numbers assigned by the United States Department of Agriculture pertaining to the parcels of land on which agriculture activity will take place; or
 - d. Any other type of information that may establish to the satisfaction of the Commissioner that the applicant qualifies for the agriculture exemption license number.
- (5) (a) The agriculture exemption license number shall expire on December 31, 2026, and every four (4) years thereafter, or when the person ceases to engage in the agriculture activity for which the agriculture exemption license number was granted, whichever comes first.
- (b) When a person ceases to engage in the agriculture activity for which the license number was granted, the person shall notify the department within sixty (60) days.
- (c) The person may apply for a renewal of the agriculture exemption license number prior to the expiration date if the person continues to meet the requirements of subsection (2) of this section and provides documentation required by subsection (4)(b)5. of this section. The department shall, by administrative regulation, prescribe the electronic process for renewing an agriculture exemption license number.
- (6) (a) On or before January 1, 2023, the department shall develop and provide an online searchable database on the department's Web site that the seller or retailer may use to confirm the agriculture exemption license number if the purchaser cannot produce documentation of the agriculture exemption license number at the time of sale.
- (b) To search the database, the seller or retailer shall provide the name of the person assigned the agriculture exemption license number and one (1) of the following:
- 1. The agriculture exemption license number;
 - 2. The agriculture exemption license number expiration date;
 - 3. The person's driver's license number;
 - 4. The farm service agency parcel number; or
 - 5. Any other unique identifier that may be accepted by the department.
- (c) The seller or retailer shall be relieved of the liability for collecting and remitting the sales and use tax if the seller or retailer meets the requirements of KRS 139.260 and 139.270.

➔Section 15. KRS 139.498 is amended to read as follows:

- (1) (a) For nonprofit civic, governmental, or other nonprofit organizations, except as described in KRS 139.495 and 139.497, the taxes imposed by this chapter do not apply to:
- 1. The sale of admissions, including the sales of admissions to a golf course when the admission is the result of a fundraising event. All other sales of admissions to a golf course by these organizations are not exempt from tax under this section; or
 - 2. a. Fundraising event sales.
 - b. For the purposes of this paragraph, "fundraising event sales" does not include sales related to the operation of a retail business, including but not limited to thrift stores, bookstores, surplus property auctions, recycle and reuse stores, or any ongoing operations in competition with for-profit retailers.
- (b) ***For nonprofit civic or other nonprofit organizations, except as described in KRS 139.495 and 139.497, that operate fundraising events solely with volunteers, the taxes imposed by this chapter also do not apply to sales of:***
- 1. ***Concessions for leisure, recreational, or athletic fundraising purposes; or***
 - 2. ***Leisure, recreational, or athletic services.***
- (c) The exemption provided in subparagraph 1. of paragraph (a) of this subsection shall not apply to the sale of admissions to a public facility that qualifies for a sales tax rebate under KRS 139.533.
- (2) All other sales made by organizations referred to in subsection (1) of this section are taxable.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) *For taxable years beginning on or after January 1, 2022, a pass-through entity may elect to pay the tax liability at the entity level, utilizing the tax rate computation under Section 21 of this Act, on behalf of the individual partner, member, or shareholder of the pass-through entity.*
- (2) *The election shall be:*
 - (a) *Made on a form prescribed by the department;*
 - (b) *Made by the:*
 1. *Fifteenth day of the fourth month upon the close of the taxable year; or*
 2. *Fifteenth day of the tenth month upon the close of the taxable year, if the return is filed under KRS 141.170;*
 - (c) *Made only upon the consent of all partners, members, or shareholders holding more than fifty percent (50%) ownership in the pass-through entity; and*
 - (d) *Binding upon all individual partners, members, or shareholders of the pass-through entity.*
- (3) *For taxable years beginning on or after January 1, 2022, there shall be allowed a pass-through entity tax credit which shall be:*
 - (a) *Equal to one hundred percent (100%) of the tax paid by the pass-through entity on behalf of the individual partner, member, or shareholder of the pass-through entity;*
 - (b) *Claimed against the tax imposed under Section 21 of this Act on a return filed by the individual partner, member, or shareholder of the pass-through entity, with the ordering of credits as provided in Section 22 of this Act;*
 - (c) *Nonrefundable; and*
 - (d) *Based on the pro rata share of the individual partner's, member's, or shareholder's income from the pass-through entity.*
- (4) *The pass-through entity shall report to each individual partner, member, or shareholder the individual's proportionate share of the tax paid by the pass-through entity for the taxable year and for purposes of the pass-through entity tax credit created in subsection (3) of this section.*
- (5) *The department shall prescribe forms and may promulgate administrative regulations as needed to administer this section.*

➔Section 17. KRS 141.010 is amended to read as follows:

As used in this chapter, for taxable years beginning on or after January 1, 2018:

- (1) "Adjusted gross income," in the case of taxpayers other than corporations, means the amount calculated in KRS 141.019;
- (2) "Captive real estate investment trust" means a real estate investment trust as defined in Section 856 of the Internal Revenue Code that meets the following requirements:
 - (a)
 1. The shares or other ownership interests of the real estate investment trust are not regularly traded on an established securities market; or
 2. The real estate investment trust does not have enough shareholders or owners to be required to register with the Securities and Exchange Commission;
 - (b)
 1. The maximum amount of stock or other ownership interest that is owned or constructively owned by a corporation equals or exceeds:
 - a. Twenty-five percent (25%), if the corporation does not occupy property owned, constructively owned, or controlled by the real estate investment trust; or
 - b. Ten percent (10%), if the corporation occupies property owned, constructively owned, or controlled by the real estate investment trust.

The total ownership interest of a corporation shall be determined by aggregating all interests owned or constructively owned by a corporation; and

2. For the purposes of this paragraph:

- a. "Corporation" means a corporation taxable under KRS 141.040, and includes an affiliated group as defined in KRS 141.200, that is required to file a consolidated return pursuant to KRS 141.200; and
 - b. "Owned or constructively owned" means owning shares or having an ownership interest in the real estate investment trust, or owning an interest in an entity that owns shares or has an ownership interest in the real estate investment trust. Constructive ownership shall be determined by looking across multiple layers of a multilayer pass-through structure; and
- (c) The real estate investment trust is not owned by another real estate investment trust;
- (3) "Commissioner" means the commissioner of the department;
 - (4) "Corporation" has the same meaning as in Section 7701(a)(3) of the Internal Revenue Code;
 - (5) "Critical infrastructure" means property and equipment owned or used by communications networks, electric generation, transmission or distribution systems, gas distribution systems, or water or wastewater pipelines that service multiple customers or citizens, including but not limited to real and personal property such as buildings, offices, lines, poles, pipes, structures, or equipment;
 - (6) "Declared state disaster or emergency" means a disaster or emergency event for which:
 - (a) The Governor has declared a state of emergency pursuant to KRS 39A.100; or
 - (b) A presidential declaration of a federal major disaster or emergency has been issued;
 - (7) "Department" means the Department of Revenue;
 - (8) "Dependent" means those persons defined as dependents in the Internal Revenue Code;
 - (9) "Disaster or emergency-related work" means repairing, renovating, installing, building, or rendering services that are essential to the restoration of critical infrastructure that has been damaged, impaired, or destroyed by a declared state disaster or emergency;
 - (10) "Disaster response business" means any entity:
 - (a) That has no presence in the state and conducts no business in the state, except for disaster or emergency-related work during a disaster response period;
 - (b) Whose services are requested by a registered business or by a state or local government for purposes of performing disaster or emergency-related work in the state during a disaster response period; and
 - (c) That has no registrations, tax filings, or nexus in this state other than disaster or emergency-related work during the calendar year immediately preceding the declared state disaster or emergency;
 - (11) "Disaster response employee" means an employee who does not work or reside in the state, except for disaster or emergency-related work during the disaster response period;
 - (12) "Disaster response period" means a period that begins ten (10) days prior to the first day of the Governor's declaration under KRS 39A.100, or the President's declaration of a federal major disaster or emergency, whichever occurs first, and that extends thirty (30) calendar days after the declared state disaster or emergency;
 - (13) "Doing business in this state" includes but is not limited to:
 - (a) Being organized under the laws of this state;
 - (b) Having a commercial domicile in this state;
 - (c) Owning or leasing property in this state;
 - (d) Having one (1) or more individuals performing services in this state;
 - (e) Maintaining an interest in a pass-through entity doing business in this state;
 - (f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or

(g) Directing activities at Kentucky customers for the purpose of selling them goods or services.

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;

- (14) "Employee" has the same meaning as in Section 3401(c) of the Internal Revenue Code;
- (15) "Employer" has the same meaning as in Section 3401(d) of the Internal Revenue Code;
- (16) "Fiduciary" has the same meaning as in Section 7701(a)(6) of the Internal Revenue Code;
- (17) "Financial institution" means:
- (a) A national bank organized as a body corporate and existing or in the process of organizing as a national bank association pursuant to the provisions of the National Bank Act, 12 U.S.C. secs. 21 et seq., in effect on December 31, 1997, exclusive of any amendments made subsequent to that date;
 - (b) Any bank or trust company incorporated or organized under the laws of any state, except a banker's bank organized under KRS 286.3-135;
 - (c) Any corporation organized under the provisions of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any corporation organized after December 31, 1997, that meets the requirements of 12 U.S.C. secs. 611 to 631, in effect on December 31, 1997; or
 - (d) Any agency or branch of a foreign depository as defined in 12 U.S.C. sec. 3101, in effect on December 31, 1997, exclusive of any amendments made subsequent to that date, or any agency or branch of a foreign depository established after December 31, 1997, that meets the requirements of 12 U.S.C. sec. 3101 in effect on December 31, 1997;
- (18) "Fiscal year" has the same meaning as in Section 7701(a)(24) of the Internal Revenue Code;
- (19) "Gross income":
- (a) In the case of taxpayers other than corporations, has the same meaning as in Section 61 of the Internal Revenue Code; and
 - (b) In the case of corporations, means the amount calculated in KRS 141.039;
- (20) "Individual" means a natural person;
- (21) "Internal Revenue Code" means for taxable years beginning on or after January 1, ~~2023~~~~[2022]~~, the Internal Revenue Code in effect on December 31, ~~2022~~~~[2021]~~, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, ~~2022~~~~[2021]~~, that would otherwise terminate;
- (22) "Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity;
- (23) "Modified gross income" means the greater of:
- (a) Adjusted gross income as defined in 26 U.S.C. sec. 62, including any amendments in effect on December 31 of the taxable year, and adjusted as follows:
 1. Include interest income derived from obligations of sister states and political subdivisions thereof; and
 2. Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
 - (b) Adjusted gross income as defined in subsection (1) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- (24) "Net income":
- (a) In the case of taxpayers other than corporations, means the amount calculated in KRS 141.019; and
 - (b) In the case of corporations, means the amount calculated in KRS 141.039;
- (25) "Nonresident" means any individual not a resident of this state;

- (26) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;
- (27) "Part-year resident" means any individual that has established or abandoned Kentucky residency during the calendar year;
- (28) "Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;
- (29) "Payroll period" has the same meaning as in Section 3401(b) of the Internal Revenue Code;
- (30) "Person" has the same meaning as in Section 7701(a)(1) of the Internal Revenue Code;
- (31) "Registered business" means a business entity that owns or otherwise possesses critical infrastructure and that is registered to do business in the state prior to the declared state disaster or emergency;
- (32) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;
- (33) "S corporation" has the same meaning as in Section 1361(a) of the Internal Revenue Code;
- (34) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;
- (35) "Taxable net income":
- (a) In the case of corporations that are taxable in this state, means "net income" as defined in subsection (24) of this section;
 - (b) In the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (24) of this section and as allocated and apportioned under KRS 141.120;
 - (c) For homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (21) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and
 - (d) For a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code, except that a captive real estate investment trust shall not be allowed any deduction for dividends paid;
- (36) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under administrative regulations prescribed by the commissioner, "taxable year" means the period for which the return is made; and
- (37) "Wages" has the same meaning as in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code.

➔Section 18. KRS 141.017 is amended to read as follows:

- (1) (a) All deductions allowed by this chapter shall be limited to amounts directly or indirectly allocable to income subject to taxation under the provisions of this chapter.
- (b) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under this chapter shall not be allowed.
- (c) This subsection does not apply to deductions allowed under Pub. L. No. 116-260, secs. 276 and 278, related to the tax treatment of forgiven covered loans and deductions attributable to those loans for taxable years ending on or after March 27, 2020, but before taxable years beginning January 1, 2022.
- (d) ***This subsection shall not apply to deductions allowed under Pub. L. No. 117-2, sec. 9673, relating to amounts allocable to income from grants to restaurants and other food service eligible entities under***

the restaurant revitalization grants program for taxable years beginning on or after January 1, 2020, but before March 11, 2023.

- (2) Nothing in this chapter shall be construed to permit the same item to be deducted more than once.

➔Section 19. KRS 141.019 is amended to read as follows:

In the case of taxpayers other than corporations:

- (1) Adjusted gross income shall be calculated by subtracting from the gross income of those taxpayers the deductions allowed individuals by Section 62 of the Internal Revenue Code and adjusting as follows:
- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
 - (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Pub. L. No. 89-699;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.523, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;
 - (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;
 - (f) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;
 - (g)
 - 1.
 - a. For taxable years beginning after December 31, 2005, but before January 1, 2018, exclude up to forty-one thousand one hundred ten dollars (\$41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans; and
 - b. For taxable years beginning on or after January 1, 2018, exclude up to thirty-one thousand one hundred ten dollars (\$31,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
 - 2. As used in this paragraph:
 - a. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code;
 - b. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution; and
 - c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;
 - (h)
 - 1.
 - a. Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and
 - b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in an S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;
 - (i) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primaries or regular or special elections;
 - (j) Exclude any capital gains income attributable to property taken by eminent domain;
 - (k)
 1. Exclude all income from all sources for members of the Armed Forces who are on active duty and who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred.
 2. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries;
 - (l) Exclude all military pay received by members of the Armed Forces while on active duty;
 - (m)
 1. Include the amount deducted for depreciation under 26 U.S.C. sec. 167 or 168; and
 2. Exclude the amounts allowed by KRS 141.0101 for depreciation;
 - (n) Include the amount deducted under 26 U.S.C. sec. 199A;
 - (o) Ignore any change in the cost basis of the surviving spouse's share of property owned by a Kentucky community property trust occurring for federal income tax purposes as a result of the death of the predeceasing spouse; ~~and~~
 - (p) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and 278, related to the tax treatment of forgiven covered loans, deductions attributable to those loans, and tax attributes associated with those loans for taxable years ending on or after March 27, 2020, but before January 1, 2022; and
 - (q) For taxable years beginning on or after January 1, 2020, but before March 11, 2023, allow the same treatment of restaurant revitalization grants in accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c, related to the tax treatment of the grants, deductions attributable to those grants, and tax attributes associated with those grants; and***
- (2) Net income shall be calculated by subtracting from adjusted gross income all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code, as modified by KRS 141.0101, except:
 - (a) Any deduction allowed by 26 U.S.C. sec. 164 for taxes;
 - (b) Any deduction allowed by 26 U.S.C. sec. 165 for losses, except wagering losses allowed under Section 165(d) of the Internal Revenue Code;
 - (c) Any deduction allowed by 26 U.S.C. sec. 213 for medical care expenses;
 - (d) Any deduction allowed by 26 U.S.C. sec. 217 for moving expenses;
 - (e) Any deduction allowed by 26 U.S.C. sec. 67 for any other miscellaneous deduction;
 - (f) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that the deduction has not been claimed under KRS 140.090(1)(h);
 - (g) Any deduction allowed by 26 U.S.C. sec. 151 for personal exemptions and any other deductions in lieu thereof;
 - (h) Any deduction allowed for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained; and

- (i) A taxpayer may elect to claim the standard deduction allowed by KRS 141.081 instead of itemized deductions allowed pursuant to 26 U.S.C. sec. 63 and as modified by this section.

➔Section 20. KRS 141.039 is amended to read as follows:

In the case of corporations:

- (1) Gross income shall be calculated by adjusting federal gross income as defined in Section 61 of the Internal Revenue Code as follows:
- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
 - (b) Exclude all dividend income;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;
 - (e) Include the amount calculated under KRS 141.205;
 - (f) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;
 - (g) Include the amount of depreciation deduction calculated under 26 U.S.C. sec. 167 or 168;~~and~~
 - (h) Allow the same treatment allowed under Pub. L. No. 116-260, secs. 276 and 278, related to the tax treatment of forgiven covered loans, deductions attributable to those loans, and tax attributes associated with those loans for taxable years ending on or after March 27, 2020, but before January 1, 2022; and
 - (i) For taxable years beginning on or after January 1, 2020, but before March 11, 2023, allow the same treatment of restaurant revitalization grants in accordance with Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c, related to the tax treatment of the grants, deductions attributable to those grants, and tax attributes associated with those grants; and*
- (2) Net income shall be calculated by subtracting from gross income:
- (a) The deduction for depreciation allowed by KRS 141.0101;
 - (b) Any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families;
 - (c) All the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code, as modified by KRS 141.0101, except:
 1. Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;
 2. The deductions contained in Sections 243, 245, and 247 of the Internal Revenue Code;
 3. The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;
 4. Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, except for deductions allowed under Pub. L. No. 116-260, secs. 276 and 278, related to the tax treatment of forgiven covered loans and deductions attributable to those loans for taxable years ending on or after March 27, 2020, but before January 1, 2022; *and deductions allowed under Pub. L. No. 117-2, sec. 9673 and 15 U.S.C. sec. 9009c, related to the tax treatment of restaurant revitalization grants and deductions attributable to those grants for taxable years beginning on or after January 1, 2020, but before March 11, 2023. Nothing ~~and nothing~~ in this chapter shall be construed to permit the same item to be deducted more than once;*
 5. Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with

enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

6. Any deduction prohibited by KRS 141.205; and
 7. Any dividends-paid deduction of any captive real estate investment trust; and
- (d)
1. A deferred tax deduction in an amount computed in accordance with this paragraph.
 2. For purposes of this paragraph:
 - a. "Net deferred tax asset" means that deferred tax assets exceed the deferred tax liabilities of the combined group, as computed in accordance with accounting principles generally accepted in the United States of America; and
 - b. "Net deferred tax liability" means deferred tax liabilities that exceed the deferred tax assets of a combined group as defined in KRS 141.202, as computed in accordance with accounting principles generally accepted in the United States of America.
 3. Only publicly traded companies, including affiliated corporations participating in the filing of a publicly traded company's financial statements prepared in accordance with accounting principles generally accepted in the United States of America, as of January 1, 2019, shall be eligible for this deduction.
 4. If the provisions of KRS 141.202 result in an aggregate increase to the member's net deferred tax liability, an aggregate decrease to the member's net deferred tax asset, or an aggregate change from a net deferred tax asset to a net deferred tax liability, the combined group shall be entitled to a deduction, as determined in this paragraph.
 5. For ten (10) years beginning with the combined group's first taxable year beginning on or after January 1, 2024, a combined group shall be entitled to a deduction from the combined group's entire net income equal to one-tenth (1/10) of the amount necessary to offset the increase in the net deferred tax liability, decrease in the net deferred tax asset, or aggregate change from a net deferred tax asset to a net deferred tax liability. The increase in the net deferred tax liability, decrease in the net deferred tax asset, or the aggregate change from a net deferred tax asset to a net deferred tax liability shall be computed based on the change that would result from the imposition of the combined reporting requirement under KRS 141.202, but for the deduction provided under this paragraph as of June 27, 2019.
 6. The deferred tax impact determined in subparagraph 5. of this paragraph shall be converted to the annual deferred tax deduction amount, as follows:
 - a. The deferred tax impact determined in subparagraph 5. of this paragraph shall be divided by the tax rate determined under KRS 141.040;
 - b. The resulting amount shall be further divided by the apportionment factor determined by KRS 141.120 or 141.121 that was used by the combined group in the calculation of the deferred tax assets and deferred tax liabilities as described in subparagraph 5. of this paragraph; and
 - c. The resulting amount represents the total net deferred tax deduction available over the ten (10) year period as described in subparagraph 5. of this paragraph.
 7. The deduction calculated under this paragraph shall not be adjusted as a result of any events happening subsequent to the calculation, including but not limited to any disposition or abandonment of assets. The deduction shall be calculated without regard to the federal tax effect and shall not alter the tax basis of any asset. If the deduction under this section is greater than the combined group's entire Kentucky net income, any excess deduction shall be carried forward and applied as a deduction to the combined group's entire net income in future taxable years until fully utilized.

8. Any combined group intending to claim a deduction under this paragraph shall file a statement with the department on or before July 1, 2019. The statement shall specify the total amount of the deduction which the combined group claims on the form, including calculations and other information supporting the total amounts of the deduction as required by the department. No deduction shall be allowed under this paragraph for any taxable year, except to the extent claimed on the timely filed statement in accordance with this paragraph.

→Section 21. KRS 141.020 is amended to read as follows:

- (1) An annual tax shall be paid for each taxable year by every resident individual of this state upon his or her entire net income as defined in this chapter. The tax shall be determined by applying the rates in subsection (2) of this section to net income and subtracting allowable tax credits provided in subsection (3) of this section.
- (2) (a) As used in this subsection:
1. "Balance in the BRTF at the end of a fiscal year" means the budget reserve trust fund account established in KRS 48.705 and includes the following amounts and actions resulting from the final close of the fiscal year:
 - a. The amount of moneys in the fund at the end of a fiscal year;
 - b. All close-out actions related to a budget reduction plan under KRS 48.130 or as modified in a branch budget bill; and
 - c. All close-out actions related to the surplus expenditure plan under KRS 48.140 or as modified in a branch budget bill;
 2. "GF appropriations" means the authorization by the General Assembly to expend GF moneys, excluding:
 - a. *Continuing appropriations;*
 - b. Any appropriation to the budget reserve trust fund; and
 - c. ~~b.~~ Any lump-sum appropriation to a state-administered retirement system, as defined in KRS 7A.210, that is in excess of the appropriations specifically budgeted to meet the recurring statutorily required contributions or recurring actuarially determined contributions for a state-administered retirement system under KRS 21.525, 61.565, 61.702, 78.635, 78.5536, or 161.550, as applicable;
 3. "GF moneys" means receipts deposited in the general fund defined in KRS 48.010, excluding tobacco moneys deposited in the fund established in KRS 248.654;
 4. "IIT equivalent" means the amount of reduction in GF moneys resulting from a one (1) percentage point reduction to the individual income tax rate ***and shall be calculated by dividing the actual individual income tax receipts for the fiscal year under consideration by:***
 - a. *The sum of:*
 - i. *The individual income tax rate, expressed as a percentage, for the first six (6) months of the fiscal year; and*
 - ii. *The individual income tax rate, expressed as a percentage, for the second six (6) months of the fiscal year; and*
 - b. *Dividing the sum determined in subdivision a. of this subparagraph by two (2);*
 5. "Reduction conditions" means:
 - a. The balance in the BRTF at the end of a fiscal year shall be equal to or greater than ten percent (10%) of the GF moneys for that fiscal year; and
 - b. GF moneys at the end of a fiscal year shall be equal to or greater than GF appropriations for that fiscal year plus the IIT equivalent for that fiscal year; and
 6. "Tax rate reduction" means the current tax rate minus five-tenths of one percent (0.5%).
- (b) ***For taxable years beginning on or after January 1, 2023, but prior to January 1, 2024, the tax shall be four and one-half percent (4.5%) of net income.***

- (c) *For taxable years beginning on or after January 1, 2024, the tax shall be four percent (4%) of net income.*
- (d) 1. *For taxable years beginning on or after January 1, 2025, the income tax rate may be reduced according to the annual process established in subparagraphs 2. to 5. of this paragraph.*
- 2.~~[1.]~~ ~~[Beginning no later than September 1, 2022, the department, with assistance from]~~ The Office of State Budget Director~~]~~ shall review the reduction conditions *for the fiscal year 2022-2023 no later than September 1, 2023*~~[as they apply to fiscal year 2020-2021 and fiscal year 2021-2022 and make a determination if the reduction conditions have been met for each fiscal year].~~
- 3.~~[2.]~~ After reviewing the reduction conditions under subparagraph 2.~~[1.]~~ of this paragraph, the *Office of State Budget Director*~~[department]~~ shall, ~~[-~~
- a. ~~—~~ no later than September 5, 2023~~[2022]~~, report to the Interim Joint Committee on Appropriations and Revenue:
- a.~~[i.]~~ Whether *the reduction conditions for the fiscal year 2022-2023 have been met*~~[a tax rate reduction will occur for the taxable year beginning on January 1, 2023]; and~~
- b.~~[ii.]~~ The amounts associated with each item within the reduction conditions used for making that determination~~[- and~~
- b. ~~—~~ i. ~~—~~ Implement the tax rate reduction for the taxable year beginning on January 1, 2023, if the reduction conditions are met; or
- ii. ~~—~~ Maintain the current tax rate, if the reduction conditions are not met~~].~~
4. a. *If the reduction conditions have been met for fiscal year 2022-2023, the General Assembly may take action to reduce the rate in paragraph (c) of this subsection for the taxable year beginning January 1, 2025.*
- b. *If the reduction conditions have not been met for fiscal year 2022-2023 or the General Assembly does not take action to reduce the rate in paragraph (c) of this subsection, the department shall maintain the rate in paragraph (c) of this subsection for the taxable year beginning January 1, 2025.*
5. a.~~[e] 1.]~~ The *Office of State Budget Director*~~[department]~~ shall implement an annual process to review and report future reduction conditions at the same time and in the same manner *for each fiscal year subsequent to the fiscal year 2022-2023 and each taxable year subsequent to the taxable year beginning January 1, 2025.*
- b. *The department shall not implement an income tax rate reduction without an action by the General Assembly.*
- c. *The annual process shall continue until the income tax rate is zero*~~[as under paragraph (b) of this subsection, except that the department shall use the next succeeding year related to the dates for review and reporting and the next succeeding fiscal year data to evaluate the reduction conditions].~~
- ~~[2. — Notwithstanding subparagraph 1. of this paragraph, the department shall not implement an income tax rate reduction without a future action by the General Assembly.]~~
- (e)~~[d]~~ For taxable years beginning on or after January 1, 2018, but before January 1, 2023, the tax shall be five percent (5%) of net income.
- (f)~~[e]~~ For taxable years beginning after December 31, 2004, and before January 1, 2018, the tax shall be determined by applying the following rates to net income:
1. Two percent (2%) of the amount of net income up to three thousand dollars (\$3,000);
 2. Three percent (3%) of the amount of net income over three thousand dollars (\$3,000) and up to four thousand dollars (\$4,000);
 3. Four percent (4%) of the amount of net income over four thousand dollars (\$4,000) and up to five thousand dollars (\$5,000);
 4. Five percent (5%) of the amount of net income over five thousand dollars (\$5,000) and up to eight thousand dollars (\$8,000);

5. Five and eight-tenths percent (5.8%) of the amount of net income over eight thousand dollars (\$8,000) and up to seventy-five thousand dollars (\$75,000); and
 6. Six percent (6%) of the amount of net income over seventy-five thousand dollars (\$75,000).
- (3) (a) The following tax credits, when applicable, shall be deducted from the result obtained under subsection (2) of this section to arrive at the annual tax:
1. a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) for an unmarried individual; and
 - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) for an unmarried individual;
 2. a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) for a married individual filing a separate return and an additional twenty dollars (\$20) for the spouse of taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or forty dollars (\$40) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code; and
 - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) for a married individual filing a separate return and an additional ten dollars (\$10) for the spouse of a taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, had no Kentucky gross income and is not the dependent of another taxpayer; or twenty dollars (\$20) for married persons filing a joint return, provided neither spouse is the dependent of another taxpayer. The determination of marital status for the purpose of this section shall be made in the manner prescribed in Section 153 of the Internal Revenue Code;
 3. a. For taxable years beginning before January 1, 2014, twenty dollars (\$20) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her spouse; and
 - b. For taxable years beginning on or after January 1, 2014, and before January 1, 2018, ten dollars (\$10) credit for each dependent. No credit shall be allowed for any dependent who has made a joint return with his or her spouse;
 4. An additional forty dollars (\$40) credit if the taxpayer has attained the age of sixty-five (65) before the close of the taxable year;
 5. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse has attained the age of sixty-five (65) before the close of the taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer;
 6. An additional forty dollars (\$40) credit if the taxpayer is blind at the close of the taxable year;
 7. An additional forty dollars (\$40) credit for taxpayer's spouse if a separate return is made by the taxpayer and if the taxpayer's spouse is blind, and, for the calendar year in which the taxable year of the taxpayer begins, has no Kentucky gross income and is not the dependent of another taxpayer; and
 8. An additional twenty dollars (\$20) credit shall be allowed if the taxpayer is a member of the Kentucky National Guard at the close of the taxable year.
- (b) In the case of nonresidents, the tax credits allowable under this subsection shall be the portion of the credits that are represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code. However, in the case of a married nonresident taxpayer with income from Kentucky sources, whose spouse has no income from Kentucky sources, the taxpayer shall determine allowable tax credit(s) by either:

1. The method contained above applied to the taxpayer's tax credit(s), excluding credits for a spouse and dependents; or
 2. Prorating the taxpayer's tax credit(s) plus the tax credits for the taxpayer's spouse and dependents by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the total joint federal adjusted gross income of the taxpayer and the taxpayer's spouse.
- (c) In the case of a part-year resident, the tax credits allowable under this subsection shall be the portion of the credits represented by the ratio of the taxpayer's Kentucky adjusted gross income as determined by KRS 141.019 to the taxpayer's adjusted gross income as defined in Section 62 of the Internal Revenue Code.
- (4) An annual tax shall be paid for each taxable year as specified in this section upon the entire net income except as herein provided, from all tangible property located in this state, from all intangible property that has acquired a business situs in this state, and from business, trade, profession, occupation, or other activities carried on in this state, by natural persons not residents of this state. A nonresident individual shall be taxable only upon the amount of income received by the individual from labor performed, business done, or from other activities in this state, from tangible property located in this state, and from intangible property which has acquired a business situs in this state; provided, however, that the situs of intangible personal property shall be at the residence of the real or beneficial owner and not at the residence of a trustee having custody or possession thereof. For taxable years beginning on or after January 1, 2021, but before January 1, 2025, the tax imposed by this section shall not apply to a disaster response employee or to a disaster response business. The remainder of the income received by such nonresident shall be deemed nontaxable by this state.
- (5) Subject to the provisions of KRS 141.081, any individual may elect to pay the annual tax imposed by KRS 141.023 in lieu of the tax levied under this section.
- (6) A part-year resident is subject to taxation, as prescribed in subsection (1) of this section, during that portion of the taxable year that the individual is a resident and, as prescribed in subsection (4) of this section, during that portion of the taxable year when the individual is a nonresident.

➔Section 22. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) The limited liability entity tax credit permitted by KRS 141.0401;
 - (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
 - (c) The qualified farming operation credit permitted by KRS 141.412;
 - (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (e) The health insurance credit permitted by KRS 141.062;
 - (f) The tax paid to other states credit permitted by KRS 141.070;
 - (g) The credit for hiring the unemployed permitted by KRS 141.065;
 - (h) The recycling or composting equipment credit permitted by KRS 141.390;
 - (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The research facilities credit permitted by KRS 141.395;
 - (k) The employer High School Equivalency Diploma program incentive credit permitted under KRS 151B.402;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The clean coal incentive credit permitted by KRS 141.428;

- (o) The ethanol credit permitted by KRS 141.4242;
 - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (q) The energy efficiency credits permitted by KRS 141.436;
 - (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (s) The Endow Kentucky credit permitted by KRS 141.438;
 - (t) The New Markets Development Program credit permitted by KRS 141.434;
 - (u) The distilled spirits credit permitted by KRS 141.389;
 - (v) The angel investor credit permitted by KRS 141.396;
 - (w) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;
 - (x) The inventory credit permitted by KRS 141.408; and
 - (y) The renewable chemical production credit permitted by KRS 141.4231.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069;
 - (d) The household and dependent care credit permitted by KRS 141.067;
 - (e) The income gap credit permitted by KRS 141.066;~~and~~
 - (f) The Education Opportunity Account Program tax credit permitted by KRS 141.522; **and**
 - (g) *The pass-through entity tax credit permitted by Section 16 of this Act.***
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and 171.397(1)(b);
 - (d) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018, or on or after January 1, 2022;
 - (e) The development area tax credit permitted by KRS 141.398; and
 - (f) The decontamination tax credit permitted by KRS 141.419.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
 - (b) The qualified farming operation credit permitted by KRS 141.412;
 - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (d) The health insurance credit permitted by KRS 141.062;
 - (e) The unemployment credit permitted by KRS 141.065;
 - (f) The recycling or composting equipment credit permitted by KRS 141.390;

- (g) The coal conversion credit permitted by KRS 141.041;
 - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The research facilities credit permitted by KRS 141.395;
 - (k) The employer High School Equivalency Diploma program incentive credit permitted by KRS 151B.402;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The clean coal incentive credit permitted by KRS 141.428;
 - (o) The ethanol credit permitted by KRS 141.4242;
 - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (q) The energy efficiency credits permitted by KRS 141.436;
 - (r) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
 - (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (t) The railroad expansion credit permitted by KRS 141.386;
 - (u) The Endow Kentucky credit permitted by KRS 141.438;
 - (v) The New Markets Development Program credit permitted by KRS 141.434;
 - (w) The distilled spirits credit permitted by KRS 141.389;
 - (x) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;
 - (y) The inventory credit permitted by KRS 141.408;
 - (z) The renewable chemical production tax credit permitted by KRS 141.4231; and
 - (aa) The Education Opportunity Account Program tax credit permitted by KRS 141.522.
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
 - (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and 171.397(1)(b);
 - (c) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018, or on or after January 1, 2022; and
 - (d) The decontamination tax credit permitted by KRS 141.419.

➔Section 23. KRS 141.070 is amended to read as follows:

- (1) Whenever an individual who is a resident of this state has become liable for income tax to another state upon all or any part of *the individual's*~~his~~ net income for the taxable year, derived from sources without this state and subject to taxation under this chapter, the amount of income tax payable~~by him~~ under this chapter shall be credited on *the*~~his~~ return with the income tax~~so~~ paid by ~~him~~ to the other state, upon ~~his~~ producing to the proper assessing officer satisfactory evidence of the fact of *the*~~such~~ payment, except that application of *any*~~such~~ credits shall not operate to reduce the tax payable under this chapter to an amount less than would have been payable were the income from the other state ignored.
- (2) An individual who is not a resident of this state shall not be liable for any income tax under KRS 141.020(4) if the laws of the state of which *the*~~such~~ individual was a resident at the time *the*~~such~~ income was earned in this state contained a reciprocal provision under which nonresidents were exempted from gross or net income taxes to *the other*~~such~~ state, if the state of residence of *the*~~such~~ nonresident individual allowed a similar exemption to resident individuals of this state. The exemption authorized by this subsection shall in no manner

preclude the department~~[of Revenue]~~ from requiring any information reports *under*~~[pursuant to]~~ KRS 141.150(2).

- (3) As used in this section, "state" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.
- (4) ***Any resident individual that is a partner, member, or shareholder of a pass-through entity doing business in another state in which the tax is assessed and paid at the entity level shall be allowed a credit in accordance with subsection (1) of this section. The credit shall be based on the individual's distributive share of the pass-through entity's items of income, loss, deduction, and credit.***

➔Section 24. KRS 141.206 is amended to read as follows:

- (1) Every pass-through entity doing business in this state shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal tax return with the form prescribed and furnished by the department.
- (2) (a) Pass-through entities shall calculate net income in the same manner as in the case of an individual under KRS 141.019 and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code.
- (b) Computation of net income under this section and the computation of the partner's, member's, or shareholder's distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.
- (3) Individuals, estates, trusts, or corporations doing business in this state as a partner, member, or shareholder in a pass-through entity shall be liable for income tax only in their individual, fiduciary, or corporate capacities, and no income tax shall be assessed against the net income of any pass-through entity, except as required:
- (a) For S corporations under KRS 141.040;~~and~~
- (b) For a partnership level audit under KRS 141.211; **and**
- (c) ***For a pass-through entity making an election under Section 16 of this Act.***
- (4) (a) Every pass-through entity required to file a return under subsection (1) of this section, except publicly traded partnerships as described in KRS 141.0401(6)(a)18. and (b)14., shall withhold Kentucky income tax on the distributive share, whether distributed or undistributed, of each nonresident individual partner, member, or shareholder.
- (b) Withholding shall be at the maximum rate provided in KRS 141.020.
- (5) (a) Every pass-through entity required to withhold Kentucky income tax as provided by subsection (4) of this section shall pay estimated tax for the taxable year, if for a nonresident individual partner, member, or shareholder, the estimated tax liability can reasonably be expected to exceed five hundred dollars (\$500).
- (b) The payment of estimated tax shall contain the information and shall be filed as provided in KRS 141.207.
- (6) (a) If a pass-through entity demonstrates to the department that a partner, member, or shareholder has filed an appropriate tax return for the prior year with the department, then the pass-through entity shall not be required to withhold on that partner, member, or shareholder for the current year unless the exemption from withholding has been revoked pursuant to paragraph (b) of this subsection.
- (b) 1. An exemption from withholding shall be considered revoked if the partner, member, or shareholder does not file and pay all taxes due in a timely manner.
2. An exemption so revoked shall be reinstated only with permission of the department.
3. If a partner, member, or shareholder who has been exempted from withholding does not file a return or pay the tax due, the department may require the pass-through entity to pay to the department the amount that should have been withheld, up to the amount of the partner's, member's, or shareholder's ownership interest in the entity.
4. The pass-through entity shall be entitled to recover a payment made pursuant to this paragraph from the partner, member, or shareholder on whose behalf the payment was made.

- (7) In determining the tax under this chapter, a resident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity shall take into account the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, deduction, and credit.
- (8) In determining the tax under this chapter, a nonresident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity required to file a return under subsection (1) of this section shall take into account:
- (a) 1. If the pass-through entity is doing business only in this state, the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, and deduction; or
 2. If the pass-through entity is doing business both within and without this state, the partner's, member's, or shareholder's distributive share of the pass-through entity's items of income, loss, and deduction multiplied by the apportionment fraction of the pass-through entity as prescribed in subsection (11) of this section; and
- (b) The partner's, member's, or shareholder's total distributive share of credits of the pass-through entity.
- (9) A corporation that is subject to tax under KRS 141.040 and is a partner or member in a pass-through entity shall take into account the corporation's distributive share of the pass-through entity's items of income, loss, and deduction and:
- (a) 1. For taxable years beginning on or after January 1, 2007, but prior to January 1, 2018, shall include the proportionate share of the sales, property, and payroll of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and
 2. For taxable years beginning on or after January 1, 2018, shall include the proportionate share of the sales of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and
- (b) Credits from the partnership.
- (10) (a) If a pass-through entity is doing business both within and without this state, the pass-through entity shall compute and furnish to each partner, member, or shareholder the numerator and denominator of each factor of the apportionment fraction determined in accordance with subsection (11) of this section.
- (b) For purposes of determining an apportionment fraction under paragraph (a) of this subsection, if the pass-through entity is:
1. Doing business both within and without this state; and
 2. A partner or member in another pass-through entity;
- then the pass-through entity shall be deemed to own the pro rata share of the property owned or leased by the other pass-through entity, and shall also include its pro rata share of the other pass-through entity's payroll and sales.
- (c) The phrases "a partner or member in another pass-through entity" and "doing business both within and without this state" shall extend to each level of multiple-tiered pass-through entities.
- (d) The attribution to the pass-through entity of the pro rata share of property, payroll and sales from its role as a partner or member in another pass-through entity will also apply when determining the pass-through entity's ultimate apportionment factor for property, payroll and sales as required under subsection (11) of this section.
- (11) (a) For taxable years beginning prior to January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction, the numerator of which is the property factor, representing twenty-five percent (25%) of the fraction, plus the payroll factor, representing twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty percent (50%) of the fraction, with each factor determined in the same manner as provided in KRS 141.901, and the denominator of which is four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two (2).
- (b) For taxable years beginning on or after January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction as provided in KRS 141.120.

- (12) Resident individuals, estates, or trusts that are partners in a partnership, members of a limited liability company electing partnership tax treatment for federal income tax purposes, owners of single member limited liability companies, or shareholders in an S corporation which does not do business in this state are subject to tax under KRS 141.020 on federal net income, gain, deduction, or loss passed through the partnership, limited liability company, or S corporation.
- (13) An S corporation election made in accordance with Section 1362 of the Internal Revenue Code for federal tax purposes is a binding election for Kentucky tax purposes.
- (14) (a) Nonresident individuals shall not be taxable on investment income distributed by a qualified investment partnership. For purposes of this subsection, a "qualified investment partnership" means a pass-through entity that, during the taxable year, holds only investments that produce income that would not be taxable to a nonresident individual if held or owned individually.
- (b) A qualified investment partnership shall be subject to all other provisions relating to a pass-through entity under this section and shall not be subject to the tax imposed under KRS 141.040 or 141.0401.
- (15) (a) A pass-through entity shall deliver to the department a return upon a form prescribed by the department showing the total amounts paid or credited to its nonresident individual partners, members, or shareholders, the amount paid in accordance with this subsection, and any other information the department may require.
- (b) A pass-through entity shall furnish to its nonresident partner, member, or shareholder annually, but not later than the fifteenth day of the fourth month after the end of its taxable year, a record of the amount of tax paid on behalf of the partner, member, or shareholder on a form prescribed by the department.

➔Section 25. KRS 148.853 is amended to read as follows:

- (1) The General Assembly finds and declares that:
- (a) The general welfare and material well-being of the citizens of the Commonwealth depend in large measure upon the development of tourism in the Commonwealth;
- (b) It is in the best interest of the Commonwealth to provide incentives for the creation of new tourism attractions and the expansion of existing tourism attractions within the Commonwealth in order to advance the public purposes of relieving unemployment by preserving and creating jobs that would not exist if not for the incentives offered by the authority to approved companies, and by preserving and creating sources of tax revenues for the support of public services provided by the Commonwealth;
- (c) The authorities granted by KRS 148.851 to 148.860 are proper governmental and public purposes for which public moneys may be expended; and
- (d) That the creation or expansion of tourism development projects is of paramount importance mandating that the provisions of KRS 139.536 and KRS 148.851 to 148.860 be liberally construed and applied in order to advance public purposes.
- (2) To qualify for incentives provided in KRS 139.536 and 148.851 to 148.860, the following requirements shall be met:
- (a) For a tourism attraction project:
1. The total eligible costs shall exceed one million dollars (\$1,000,000), except for a tourism attraction project located in a county designated as an enhanced incentive county at the time the eligible company becomes an approved company as provided in KRS 148.857(6), the total eligible costs shall exceed five hundred thousand dollars (\$500,000);
 2. In any year, including the first year of operation, the tourism attraction project shall be open to the public at least one hundred (100) days; and
 3. In any year following the third year of operation, the tourism attraction project shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;
- (b) For an entertainment destination center project:
1. The total eligible costs shall exceed five million dollars (\$5,000,000);

2. The facility shall contain a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction project or a major convention facility;
 3. The incentives shall be dedicated to a public infrastructure purpose that shall relate to the entertainment destination center project;
 4. In any year, including the first year of operation, the entertainment destination center project shall:
 - a. Be open to the public at least one hundred (100) days per year;
 - b. Maintain at least one (1) major theme restaurant and at least three (3) additional entertainment venues, including but not limited to live entertainment, multiplex theaters, large-format theater, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure-time activities; and
 - c. Maintain a minimum occupancy of sixty percent (60%) of the total gross area available for lease with entertainment and food and drink options not including the retail sale of tangible personal property; and
 5. In any year following the third year of operation, the entertainment destination center project shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;
- (c) For a theme restaurant destination attraction project:
1. The total eligible costs shall exceed five million dollars (\$5,000,000);
 2. In any year, including the first year of operation, the attraction shall:
 - a. Be open to the public at least three hundred (300) days per year and for at least eight (8) hours per day; and
 - b. Generate no more than fifty percent (50%) of its revenue through the sale of alcoholic beverages;
 3. In any year following the third year of operation, the theme restaurant destination attraction project shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth; and
 4. The theme restaurant destination attraction project shall:
 - a. At the time of final approval, offer a unique dining experience that is not available in the Commonwealth within a one hundred (100) mile radius of the attraction;
 - b. In any year, including the first year of operation, maintain seating capacity of four hundred fifty (450) guests and offer live music or live musical and theatrical entertainment during the peak business hours that the facility is in operation and open to the public; or
 - c. Within three (3) years of the completion date, the attraction shall obtain a top two (2) tier rating by a nationally accredited service and shall maintain a top two (2) tier rating through the term of the agreement;
- (d) For a lodging facility project:
1.
 - a. The eligible costs shall exceed five million dollars (\$5,000,000) unless the provisions of subdivision b. of this subparagraph apply.
 - b.
 - i. If the lodging facility is an integral part of a major convention or sports facility, the eligible costs shall exceed six million dollars (\$6,000,000); and
 - ii. If the lodging facility includes five hundred (500) or more guest rooms, the eligible costs shall exceed ten million dollars (\$10,000,000); and
 2. In any year, including the first year of operation, the lodging facility shall:
 - a. Be open to the public at least one hundred (100) days; and

- b. Attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth;
 - (e) Any tourism development project shall not be eligible for incentives if it includes material determined to be lewd, offensive, or deemed to have a negative impact on the tourism industry in the Commonwealth; and
 - (f) An expansion of any tourism development project shall in all cases be treated as a new stand-alone project.
- (3) The incentives offered under the Kentucky Tourism Development Act shall be as follows:
- (a) An approved company may be granted a sales tax incentive based on the Kentucky sales tax imposed on sales generated by or arising at the tourism development project; and
 - (b)
 1. For a tourism development project other than a lodging facility project described in KRS 148.851(14)(e) or (f), or a tourism attraction project described in subparagraph 2. of this paragraph:
 - a. A sales tax incentive shall be allowed to an approved company over a period of ten (10) years, except as provided in ~~subparagraphs~~~~[subparagraph]~~ 5. *and* 6. of this paragraph; and
 - b. The sales tax incentive shall not exceed the lesser of the total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed twenty-five percent (25%);
 2. For a tourism attraction project located in an enhanced incentive county at the time the eligible company becomes an approved company as provided in KRS 148.857(6):
 - a. A sales tax incentive shall be allowed to the approved company over a period of ten (10) years; and
 - b. The sales tax incentive shall not exceed the lesser of the total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed thirty percent (30%);
 3. For a lodging facility project described in KRS 148.851(14)(e) or (f):
 - a. A sales tax incentive shall be allowed to the approved company over a period of twenty (20) years; and
 - b. The sales tax incentive shall not exceed the lesser of total amount of the sales tax liability of the approved company and its lessees or a percentage of the approved costs as specified by the agreement, not to exceed fifty percent (50%);
 4. Any unused incentives from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire specified percentage of the approved costs has been received through sales tax incentives;~~and~~
 5. If the approved company is an entertainment destination center that has dedicated at least thirty million dollars (\$30,000,000) of the incentives provided under the agreement to a public infrastructure purpose, the agreement may be amended to extend the term of the agreement up to two (2) additional years if the approved company agrees to:
 - a. Reinvest in the original entertainment destination project one hundred percent (100%) of any incentives received during the extension that were outstanding at the end of the original term of the agreement; and
 - b. Report to the authority at the end of each fiscal year the amount of incentives received during the extension and how the incentives were reinvested in the original entertainment destination project; *and*
 6. *The term of a tourism development agreement entered into with a tourism attraction project that was in effect on January 1, 2020, shall be extended for one (1) year if the tourism attraction project:*

- a. *Has historically been open to the public on a seasonal basis consisting of less than six (6) months;*
- b. *Has previously met the requirement of being open to the public at least one hundred (100) days during the entire term of the tourism development agreement as required under subsection (2)(a)2. of this section;*
- c. *Failed to be open to the public at least one hundred (100) days during the calendar year 2020 solely as a result of complying with one (1) or more executive orders issued by the Governor under the authority of KRS 39A.090 that prevented the tourism attraction project from being open to the public for at least one hundred (100) days during its normal operating season; and*
- d. *Applied for a sales tax incentive related to the calendar year 2020 operating season and was denied the sales tax incentive solely on the basis that the tourism attraction project was not open to the public for at least one hundred (100) days in calendar year 2020.*

➔Section 26. KRS 154.30-010 is amended to read as follows:

As used in this subchapter:

- (1) "Activation date" means:
 - (a) For all projects except those described in paragraph (b) of this subsection, the date established any time within a two (2) year period after the commencement date. The Commonwealth may extend the two (2) year period to no more than four (4) years upon written application by the agency requesting the extension; and
 - (b) For signature projects approved under KRS 154.30-050(2)(a), the date established any time within a ten (10) year period after the commencement date.

For all projects established after July 14, 2018, the activation date is the date on which the time period for the pledge of incremental revenues shall commence. To implement the activation date, the minimum capital investment must be met and the agency that is a party to the tax incentive agreement shall notify the office;

- (2) "Agency" means:
 - (a) An urban renewal and community development agency established under KRS Chapter 99;
 - (b) A development authority established under KRS Chapter 99;
 - (c) A nonprofit corporation;
 - (d) A housing authority established under KRS Chapter 80;
 - (e) An air board established under KRS 183.132 to 183.160;
 - (f) A local industrial development authority established under KRS 154.50-301 to 154.50-346;
 - (g) A riverport authority established under KRS 65.510 to 65.650; or
 - (h) A designated department, division, or office of a city or county;
- (3) "Approved public infrastructure costs" means costs associated with the acquisition, installation, construction, or reconstruction of public works, public improvements, and public buildings, including planning and design costs associated with the development of such public amenities. "Approved public infrastructure costs" includes but is not limited to costs incurred for the following:
 - (a) Land preparation, including demolition and clearance work;
 - (b) Buildings;
 - (c) Sewers and storm drainage;
 - (d) Curbs, sidewalks, promenades, and pedways;
 - (e) Roads;
 - (f) Street lighting;
 - (g) The provision of utilities;

- (h) Environmental remediation;
 - (i) Floodwalls and floodgates;
 - (j) Public spaces or parks;
 - (k) Parking;
 - (l) Easements and rights-of-way;
 - (m) Transportation facilities;
 - (n) Public landings;
 - (o) Amenities, such as fountains, benches, and sculptures; and
 - (p) Riverbank modifications and improvements;
- (4) "Approved signature project costs" means:
- (a) The acquisition of land for portions of the project that are for infrastructure; and
 - (b) Costs associated with the acquisition, installation, development, construction, improvement, or reconstruction of infrastructure, including planning and design costs associated with the development of infrastructure, including but not limited to parking structures, including portions of parking structures that serve as platforms to support development above;
- that have been determined by the commission to represent a unique challenge in the financing of a project such that the project could not be developed without incentives intended by this chapter to foster economic development;
- (5) "Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010;
- (6) "Capital investment" means:
- (a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of a project;
 - (b) The cost of acquiring land or rights in land within the development area on the footprint of the project, and any cost incident 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 a project which is not paid by the contractor or contractors or otherwise provided;
 - (d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans, specifications, preliminary investigations, supervision of construction, and the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of a project;
 - (e) All costs that are required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of a project; and
 - (f) All other costs of a nature comparable to those described in this subsection that occur after preliminary approval;
- (7) "City" means any city, consolidated local government, or urban-county government;
- (8) "Commencement date" means the final approval date or the date on which a tax incentive agreement is executed;
- (9) "Commonwealth" means the Commonwealth of Kentucky;
- (10) "County" means any county, consolidated local government, charter county, unified local government, or urban-county government;
- (11) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items, base year computed for 1982 to 1984 equals one hundred (100), published by the United States Department of Labor, Bureau of Labor Statistics;
- (12) "Department" means the Department of Revenue;

- (13) "Development area" means an area established under KRS 65.7049, 65.7051, and 65.7053;
- (14) "Economic development projects" means projects which are approved for tax credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter 154;
- (15) "Financing costs" means principal, interest, costs of issuance, debt service reserve requirements, underwriting discount, costs of credit enhancement or liquidity instruments, and other costs directly related to the issuance of bonds or debt for approved public infrastructure costs or approved signature project costs for projects approved pursuant to KRS 154.30-050;
- (16) "Footprint" means the actual perimeter of a discrete, identified project within a development area. The footprint shall not include any portion of a development area outside the area for which actual capital investments are made and must be contiguous;
- (17) "Governing body" means the body possessing legislative authority in a city or county;
- (18) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects;
- (19) "Incremental revenues" means:
- (a) The amount of revenues received by a taxing district, as determined by subtracting old revenues from new revenues in a calendar year with respect to a development area, or a project within a development area; or
 - (b) The amount of revenues received by the Commonwealth as determined by subtracting old revenues from new revenues in a calendar year with respect to the footprint;
- (20) "Local participation agreement" means the agreement entered into under KRS 65.7063;
- (21) "Local tax revenues" has the same meaning as in KRS 65.7045;
- (22) ***"Modified new revenues for income tax" means the amount of individual income tax included in state tax revenues that is:***
- (a) The result of multiplying the portion of state tax revenues from individual income taxes by the modifier;***
 - (b) Used for calculating state tax revenues in calendar years 2023 and 2024; and***
 - (c) For projects approved prior to January 1, 2023;***
- (23) ***"Modifier" means the result of dividing the individual income tax rate of five percent (5%), in effect as of December 31, 2022, by the individual income tax rate under KRS 141.020 for the calendar year in which the new revenues for income tax are being computed;***
- (24) "New revenues" means:
- (a) The amount of local tax revenues received by a taxing district with respect to a development area in any calendar year beginning with the year in which the activation date occurred; ***and***
 - (b) The amount of state tax revenues received by the Commonwealth with respect to the footprint in any calendar year beginning with the year in which the activation date occurred.
- For projects approved prior to January 1, 2023, any state tax revenues received by the Commonwealth from individual income tax shall be computed using modified new revenues for income tax;***
- ~~(25)~~~~(23)~~ "Old revenues" means:
- (a) The amount of local tax revenues received by a taxing district with respect to a development area as of December 31 of the year of preliminary approval; or
 - (b) 1. The amount of state tax revenues received by the Commonwealth within the footprint as of December 31 of the year of preliminary approval. If the authority determines that the amount of state tax revenues received as of December 31 of the last calendar year prior to the commencement of preliminary approval does not represent a true and accurate depiction of revenues, the authority may consider revenues for a period of no longer than three (3) calendar years prior to the year of preliminary approval, so as to determine a fair representation of state tax revenues. The amount determined by the authority shall be specified in the tax incentive

agreement. If state tax revenues were derived from the footprint prior to the year of preliminary approval, old revenues shall increase each calendar year by:

- a. The percentage increase, if any, of the CPI or a comparable index; or
- b. An alternative percentage increase that is determined to be appropriate by the authority.

The method for increasing old revenues shall be set forth in the tax incentive agreement;

2. If state revenues were derived from the footprint prior to the year of preliminary approval, the calculation of incremental revenues shall be based on the value of old revenues as increased using the method prescribed in subparagraph 1. of this paragraph to reflect the same calendar year as is used in the determination of new revenues;

~~(26)~~~~(24)~~ "Outstanding" means increment bonds that have been issued, delivered, and paid for by the purchaser, except any of the following:

- (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;
- (b) Increment bonds in replacement of which or in exchange for which other increment bonds have been issued; or
- (c) Increment bonds for the payment, redemption, or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

~~(27)~~~~(25)~~ "Preliminary approval" means the action taken by the authority preliminarily approving an eligible project for incentives under this subchapter;

~~(28)~~~~(26)~~ "Project" means any property, asset, or improvement located in a development area and certified by the governing body as:

- (a) Being for a public purpose; and
- (b) Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, including the development, rehabilitation, renovation, installation, improvement, enlargement, or extension of real estate and buildings; and
- (c) Contributing to economic development or tourism; and
- (d) Meeting the additional requirements established by KRS 154.30-040, 154.30-050, or 154.30-060;

~~(29)~~~~(27)~~ "Signature project" means a project approved under KRS 154.30-050;

~~(30)~~~~(28)~~ "State real property ad valorem tax" means real property ad valorem taxes levied under KRS 132.020(1)(a);

~~(31)~~~~(29)~~ "State tax revenues" means revenues received by the Commonwealth from one (1) or more of the following sources:

- (a) State real property ad valorem taxes;
- (b) Individual income taxes levied under KRS 141.020, other than individual income taxes that have already been pledged to support an economic development project within the development area;
- (c) Corporation income taxes levied under KRS 141.040, other than corporation income taxes that have already been pledged to support an economic development project within the development area;
- (d) Limited liability entity taxes levied under KRS 141.0401, other than limited liability entity taxes that have already been pledged to support an economic development project within the development area; and
- (e) Sales taxes levied under KRS 139.200, excluding sales taxes already pledged for:

1. Approved tourism attraction projects, as defined in KRS 148.851, within the development area; and
 2. Projects which are approved for sales tax refunds under Subchapter 20 of KRS Chapter 154 within the development area;
- ~~(32)(30)~~ "Tax incentive agreement" means an agreement entered into in accordance with KRS 154.30-070; and
- ~~(33)(31)~~ "Termination date" means:
- (a) For a tax incentive agreement satisfying the requirements of KRS 154.30-040 or 154.30-060, a date established by the tax incentive agreement that is no more than twenty (20) years from the activation date. However, the termination date for a tax incentive agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the tax incentive agreement relates; and
 - (b) For a project grant agreement satisfying the requirements of KRS 154.30-050, a date established by the tax incentive agreement that is no more than thirty (30) years from the activation date. However, the termination date for a tax incentive agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the tax incentive agreement relates.

➔Section 27. KRS 224.1-420 is amended to read as follows:

- (1) For purposes of this section:
 - (a) "Assignor" means the recipient of the tax credit who may assign, sell, or transfer, in whole or in part, the tax credit to any other taxpayer;
 - (b) "Department" means the Department of Revenue;
 - (c) "Qualifying expenditures" means up to one hundred percent (100%) of the costs of materials, supplies, equipment, labor, professional engineering, consulting and architectural fees, permitting fees and expenses, demolition, asbestos abatement, and direct utility charges for voluntarily performing activities to decontaminate or remediate any preexisting hazardous substance, pollutant or contaminant, or petroleum and petroleum products as defined in KRS 224.60-115, including but not limited to the costs of performing operation and maintenance of the remediation systems and equipment at the qualifying decontamination property beyond the year in which the systems and equipment are built and installed and the costs of performing the remediation activities following the taxpayer's tax year in which the systems and equipment were first put into use at the qualifying decontamination property; and
 - (d) "Qualifying decontamination property" includes qualifying voluntary environmental remediation property as defined in KRS 141.418 and shall also include real property under the Brownfield Redevelopment Program as established in KRS 224.1-415, if the guidelines in KRS 141.418(1)(e) are met.
- (2) There is hereby created a decontamination tax credit.
- (3)
 - (a) For taxable years beginning on or after January 1, 2022, but before January 1, 2032, a taxpayer making a qualifying expenditure at a qualifying decontamination property shall be allowed a refundable credit against the taxes imposed by KRS 141.020 or 141.040 and 141.0401, with the ordering of credits as provided in KRS 141.0205.
 - (b) The credit shall be equal to the amount of expenditures made by the taxpayer for the decontamination or remediation of the qualifying decontamination property.
 - (c) The total credit awarded per qualifying decontamination property shall not exceed thirty million dollars (\$30,000,000).
 - (d) The amount of credit to be taken in a taxable year shall not exceed twenty-five percent (25%) of the total amount of approved credit.
 - (e) ***A total of no more than thirty million dollars (\$30,000,000) of tax credit shall be awarded in fiscal year 2022-2023 and fiscal year 2023-2024.***
- (4) The qualifying expenditures:
 - (a) Shall be in accordance with a corrective action plan approved by the cabinet under KRS 224.1-400, 224.1-405, or 224.60-135; and

- (b) May include up to one hundred percent (100%) of the costs of demolition that are not directly part of the decontamination or remediation activities, provided that the demolition is:
1. a. On the property where the decontamination or remediation activities are occurring; or
 - b. On adjacent property, so long as it is independently qualified as abandoned or underutilized;
 2. Necessary to accomplish the planned use of the property where the decontamination or remediation activities are occurring; and
 3. Part of a redevelopment plan approved by the municipal or county government and the cabinet.
- (5) The decontamination or remediation shall not be financed through a public grant program or the petroleum storage tank environmental assurance fund under KRS 224.60-115.
- (6) The amount of reasonably anticipated total qualifying expenditures associated with the qualifying decontamination property shall equal or exceed ~~six[ten]~~ million dollars **(\$6,000,000)**~~[(10,000,000)]~~.
- (7) (a) The qualifying decontamination property shall be located:
1. Within one-half (1/2) mile of a tax increment financing development area; or
 2. In a census tract that qualifies for the use of the Kentucky New Markets Development Program tax credit created under KRS 141.434.
- (b) The amount of reasonably anticipated capital investment in the qualifying decontamination property shall exceed thirty million dollars (\$30,000,000).
- (8) (a) Beginning on or after January 1, 2022, a taxpayer seeking the credit established in this section shall file an application with the cabinet not less than thirty (30) days prior to the date the qualifying expenditures will begin, and on a form as prescribed by the cabinet for determination of eligibility.
- (b) The application shall include supporting documentation, including:
1. The name, address, and taxpayer identification number of the owner of the qualifying decontamination property;
 2. Detailed description of the property;
 3. The proposed start and completion dates for the project; and
 4. The projected amount of total capital investment and qualifying expenditures associated with the property.
- (c) Taxpayers awarded a credit under this subsection shall submit receipts annually to the cabinet verifying the qualifying expenditures claimed.
- (d) The cabinet shall make a determination of the maximum credit available for the qualifying decontamination property and provide notification of the awarded credit amount to the department and taxpayer within sixty (60) days of the date on which the application was filed.
- (e) Any taxpayer approved for credit under this section shall not also claim or apply for any other credit related to the decontamination or remediation of the same qualifying decontamination property.

➔Section 28. KRS 198A.030 is amended to read as follows:

- (1) There is hereby created and established an independent, de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to be known as the Kentucky Housing Corporation.
- (2) The Kentucky Housing Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people by the production of residential housing in Kentucky.
- (3) The corporation shall be governed by a board of directors, consisting of fifteen (15) members, five (5) of whom shall be the **Commissioner of Agriculture**~~Lieutenant Governor~~, the secretary of the Finance and Administration Cabinet, the commissioner of the Department for Local Government, the Attorney General, and the secretary of the Cabinet for Economic Development, or their duly appointed designees, as public

directors, and ten (10) private directors who shall be appointed by the Governor, subject to confirmation by the Senate as provided by KRS 11.160, as follows:

- (a) One (1) private director representing the interests of financial lending institutions located within the Commonwealth;
 - (b) One (1) private director representing the interests of the manufactured housing industry within the Commonwealth;
 - (c) One (1) private director representing the interests of real estate practitioners licensed by the Kentucky Real Estate Commission;
 - (d) One (1) private director representing the interests of the homeless population within the Commonwealth;
 - (e) One (1) private director representing the interests of local government;
 - (f) One (1) private director representing the interests of the home construction industry in the Commonwealth;
 - (g) One (1) private director representing the interests of consumers in the Commonwealth;
 - (h) One (1) private director representing the interests of the Kentucky State Building Trades Council;
 - (i) One (1) director representing the interests of nonprofit housing organizations located within the Commonwealth; and
 - (j) One (1) director having significant professional experience in auditing, financial accounting, municipal bond financing, or investment banking.
- (4) Private directors appointed by the Governor may include previous members of the board, and members may be reappointed for successive terms. All appointments shall be for four (4) years, and the appointees shall serve until a qualified successor is appointed.
 - (5) In case of a vacancy, the Governor may appoint a person for the vacancy to hold office during the remainder of the term. A vacancy shall be filled in accordance with the requirement and procedures for appointments.
 - (6) The Governor may remove any private director whom he *or she* may appoint in case of incompetency, neglect of duty, gross immorality, or malfeasance in office, and *the Governor*~~he~~ may declare *the*~~his~~ office vacant and may appoint a person for the vacancy as provided in this section.
 - (7) The Governor shall designate a *private* director of the corporation to serve as chairman. The term of the chairman shall extend to the earlier of either the date of expiration of his *or her* then current term as a *private* director of the corporation or a date six (6) months after the expiration of the then current term of the Governor designating the chairman.
 - (8) The board of directors shall annually elect one (1) of its members as vice chairman. The board of directors shall also elect or appoint, and prescribe the duties of, other officers the board of directors deems necessary or advisable, including an executive director and a secretary, and the board of directors shall fix the compensation of the officers.
 - (9) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that copies are true copies, and all persons dealing with the corporation may rely upon the certificates.
 - (10) A majority of the board of directors of the corporation shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. A majority shall be determined by excluding any existing vacancies from the total number of directors.
 - (11) Action shall be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum shall exist called upon three (3) days' written notice to each director or upon the concurrence of at least eight (8) directors.

- (12) Each private director shall be entitled to a fee of one hundred dollars (\$100) for attendance at each meeting of the board of directors or duly called committee meeting of the board.

➔SECTION 29. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

As used in Sections 29 to 34 of this Act:

- (1) *"Moderate income" means the income of individuals or families that is below one hundred twenty percent (120%) of the area median income for the Commonwealth as determined by the United States Department of Housing and Urban Development;*
- (2) *"Nonprofit organization" has the same meaning as in KRS 198A.700;*
- (3) *"Technical assistance" has the same meaning as in KRS 198A.700; and*
- (4) *"Trust fund" means the rural housing trust fund created in Section 31 of this Act.*

➔SECTION 30. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that:

- (1) *Current economic conditions, federal housing policies, and declining resources at the federal, state, and local levels adversely affect the ability of individuals to obtain safe, decent, and affordable rural housing;*
- (2) *An increasing number of individuals are homeless, at risk of becoming homeless, or live in overcrowded, inadequate, and unsafe rural housing units; and*
- (3) *It is in the public interest to establish a continuously renewable resource known as a rural housing trust fund to assist moderate income individuals in meeting basic housing needs.*

➔SECTION 31. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby established in the State Treasury a revolving account to be known as the rural housing trust fund. The fund shall consist of moneys received from state appropriations, gifts, grants, federal funds, and all repayment, interest, or other return on the investment of trust fund dollars as required by subsection (7)(b) of Section 32 of this Act.*
- (2) *The fund shall be administered by the corporation.*
- (3) *Amounts deposited in the fund shall be used as provided in Sections 29 to 34 of this Act. Separate accounts within the fund shall be made for state appropriations, federal funds, and moneys received from other sources.*
- (4) *Notwithstanding KRS 45.229, moneys in the fund not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.*
- (5) *Any interest earnings of the fund shall become a part of the fund and shall not lapse.*

➔SECTION 32. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

- (1)
 - (a) *The corporation shall use moneys from the rural housing trust fund created in Section 31 of this Act to make, or participate in the making, of loans or grants for the eligible activities described in this section.*
 - (b) *Any loan or grant shall be made upon the determination by the corporation that the loan or grant shall be used to create new sources of funding, or to supplement existing sources of funding for eligible activities, and shall not be used to replace existing or available moneys.*
- (2) *Activities eligible for fund shall include:*
 - (a) *Acquisition of housing units for the purpose of preservation of or conversion to rural housing units;*
 - (b) *New construction or rehabilitation of rural housing units;*
 - (c) *Matching funds for technical assistance directly related to providing rural housing for individuals under Sections 29 to 34 of this Act; and*
 - (d) *Administrative costs for rural housing assistance programs or organizations eligible for funding under subsection (3) of this section, if the loans or grants will substantially increase the recipient's access to housing funds other than those available under Sections 29 to 34 of this Act.*
- (3) *Organizations eligible for funding from the rural housing trust fund include:*

- (a) *Local governments;*
 - (b) *Local government housing authorities;*
 - (c) *Nonprofit organizations;*
 - (d) *Regional or statewide housing assistance organizations; and*
 - (e) *Business organizations that undertake the new construction or rehabilitation of rural housing units for moderate income individuals.*
- (4) *Housing units provided to moderate income individuals or families under Sections 29 to 34 of this Act shall be deed restricted under the following conditions:*
- (a) *Rental housing shall be deed restricted for a minimum of thirty (30) years. Investment from the rural housing trust fund into a specific housing type shall revert to like housing for moderate income individuals; and*
 - (b) *Single-family units or units for sale shall be deed restricted for a minimum of ten (10) years.*
- The corporation may grant amendments to deed restrictions on a case-by-case basis.*
- (5) *In the development of rural housing under Sections 29 to 34 of this Act, displacement of moderate income individuals or families shall not be permitted unless the project pays all reasonable relocation costs as defined by the corporation in administrative regulations promulgated under KRS Chapter 13A.*
- (6) *Discrimination in the sale or rental, or otherwise making available or denying, a dwelling funded under Sections 29 to 34 of this Act to any buyer or renter because of race, religion, sex, familial status, disability, or national origin is prohibited.*
- (7) (a) *Moneys in the trust fund shall be contributed permanently to a rural project, except when serving as a match for federal housing programs that require all funds to be contributed permanently to the federal program.*
- (b) *All repayment, interest, or other return on the investment of trust fund moneys are required to be returned to the trust fund and used for eligible trust fund activities in accordance with Sections 29 to 34 of this Act.*
- (c) *Trust fund moneys invested in a rural project with federal dollars requiring a permanent contribution shall be recaptured to the federal program account.*
- (8) *Beginning on or before October 1, 2024, and on or before each October 1 thereafter, the corporation shall submit a report to the Legislative Research Commission on the disposition of the rural housing trust fund moneys for the previous fiscal year.*

➔SECTION 33. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

The corporation shall:

- (1) *Issue a public notice to eligible recipients regarding the availability of trust fund moneys at least twice each calendar year;*
- (2) *Provide a reasonable opportunity for the filing of applications;*
- (3) *After consultation with the Rural Housing Trust Fund Advisory Committee created in Section 34 of this Act, approve or deny properly submitted and completed applications within ninety (90) days of their receipt;*
- (4) *Approve applications that will effectively use available moneys;*
- (5) *Approve or deny applications by ranking the applications competitively using criteria established by the corporation in consultation with the advisory committee and promulgated in an administrative regulation under KRS Chapter 13A;*
- (6) *Give priority to applications in the following order:*
 - (a) *Applications for projects located in a federally declared disaster area or projects assisting individual recipients displaced by a federally declared disaster area;*
 - (b) *Applications for projects submitted by nonprofit organizations or local governments for new rural housing construction;*

- (c) *Applications for projects using existing privately owned housing stock, including stock purchased by nonprofit public development activities;*
- (d) *Applications for projects using existing publicly owned housing stock; and*
- (e) *Applications from local governments for projects that demonstrate effective zoning, conversion, or demolition controls for single room occupancy units;*
- (7) *Provide technical assistance to eligible recipients seeking to construct, rehabilitate, or finance housing-related services for moderate income individuals. The corporation may contract with nonprofit organizations to provide the technical assistance required by this subsection; and*
- (8) *Provide the following services:*
 - (a) *Financial planning and packaging for housing projects, including alternative ownership programs and bridge financing;*
 - (b) *Project design, architectural planning, siting, and compliance with planning requirements;*
 - (c) *Securing matching resources for project development;*
 - (d) *Maximizing local government contributions to project development in the form of land donations, infrastructure improvements, waivers of development fees, local and state managed funds, zoning variances, density bonuses for low-rise multifamily projects, or creative local planning;*
 - (e) *Coordination with local planning, economic development, environmental, technical assistance, and recreational activities;*
 - (f) *Construction and material management; and*
 - (g) *Project maintenance and management.*

➔SECTION 34. A NEW SECTION OF KRS CHAPTER 198A IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby created the Rural Housing Trust Fund Advisory Committee, which shall be composed of the following eleven (11) members:*
 - (a) *The Commissioner of Agriculture or the Commissioner's duly appointed designee;*
 - (b) *Two (2) members of the Senate appointed by the President of the Senate, each of whom shall serve while a member of the Senate for the term for which he or she was elected;*
 - (c) *Two (2) members of the House of Representatives appointed by the Speaker of the House, each of whom shall serve while a member of the House of Representatives for the term for which he or she was elected; and*
 - (d) *Six (6) private citizens with a principal residence located in a rural community who shall be appointed by the board of directors of the corporation.*
- (2)
 - (a) *Members appointed under subsection (1)(d) of this section shall serve a three (3) year term or until their successors are appointed and duly qualified, and may be reappointed to one (1) additional term.*
 - (b) *A vacancy on the advisory committee shall be filled following the requirements and procedures for original appointments.*
- (3) *The advisory committee shall consult with and advise the officers and directors of the corporation concerning matters relating to the rural housing trust fund.*
- (4) *The Commissioner of Agriculture shall be the presiding officer, and the advisory committee may establish its own rules of procedure, which shall not be inconsistent with the housing provisions of this chapter.*
- (5) *Members of the advisory committee shall serve without compensation, but members who are not employees of the Commonwealth shall be entitled to reimbursement for actual expenses incurred in carrying out their duties on the advisory committee.*

➔Section 35. KRS 48.020 is amended to read as follows:

Each branch of government shall have in continuous process of preparation and revision, in the light of its direct studies of the operations, plans and needs of its budget units and of the existing and prospective sources of income, a branch budget recommendation for the next two (2) fiscal years for which a budget recommendation is required to be prepared. Upon receipt of the estimates from its budget units, each branch of government shall check these estimates

in the light of its own information, and shall make such further inquiries and investigations and revise its branch budget recommendation as it deems warranted. ~~The branch budget recommendation when approved shall be certified together with the budget statements provided for in KRS 48.110 and submitted as provided for in KRS 48.100.~~

➔Section 36. KRS 48.040 is amended to read as follows:

- (1) On or before April 1 of each odd-numbered year, representatives designated by the Governor, the Chief Justice, and the Legislative Research Commission for their respective branches shall propose drafts of uniform forms to be used by all budget units in submitting their budget estimates, requests and recommendations, and shall recommend to the Legislative Research Commission such rules and regulations deemed necessary for the preparation of such budget estimates, requests and recommendations.
- (2) On or before ~~June~~~~July~~ 1 of each odd-numbered year, the Legislative Research Commission shall prescribe uniform forms, records, and instructions to be used by branch budget units. Included in such forms shall be a section requiring budget units to identify the amount of funds to be spent on agency publications.
- (3)
 - (a) On or before August 15 of each odd-numbered year, each of the state-administered retirement systems as defined by KRS 6.350(5) shall submit to the state budget director's office and the Legislative Research Commission a preliminary projection of the actuarially required contribution rates payable for the budget biennium that begins in the following fiscal year.
 - (b) On or before ~~October 1~~~~November 15~~ of each odd-numbered year, the state-administered retirement systems as defined by KRS 6.350(5) shall submit revised projections to the state budget director's office and the Legislative Research Commission, based upon the most recently completed actuarial valuation, of the actuarially required contribution rates payable for the budget biennium that begins in the following fiscal year.
 - (c) The Legislative Research Commission shall distribute the information received under this subsection to the committee staff and co-chairs of any committee that has jurisdiction over a state-administered retirement system.
- (4) On or before ~~August~~~~September~~ 1 of each odd-numbered year, the Finance and Administration Cabinet shall supply each branch of government with at least three (3) complete sets of the prescribed uniform forms and instructions for the preparation of estimates and statements, and one (1) copy of the complete statement of the expenditures of each budget unit of the branch to aid each branch of government in preparing its estimates and statements.
- (5) Upon request, the Finance and Administration Cabinet shall provide such additional assistance to each branch of government as may be required.

➔Section 37. KRS 48.050 is amended to read as follows:

On or before October 1 of each odd-numbered year, the head of each budget unit shall submit its budget unit request to:

- (1) The Office of State Budget Director, in the case of the executive branch;~~;~~~~to~~
- (2) The Chief Justice, in the case of the judicial branch;~~;~~~~to~~
- (3) The director of the Legislative Research Commission, in the case of the legislative branch; and~~to~~
- (4) The Legislative Research Commission~~;~~~~not later than November 15 of each odd-numbered year~~.

➔Section 38. KRS 48.110 is amended to read as follows:

Each branch budget recommendation shall contain a complete financial plan for the branch of government for each of the next two (2) fiscal years. ***Each branch budget recommendation and all supporting documentation shall be submitted in a form and format cooperatively developed by each respective branch of government and the General Assembly and approved by the Legislative Research Commission.*** Each branch budget recommendation shall include:

- (1) A budget message signed by:
 - (a) The Governor for the executive branch;
 - (b) The Chief Justice for the judicial branch; and
 - (c) The co-chairmen of the Legislative Research Commission for the legislative branch;

- (2) (a) Statements of income and receipts for the two (2) fiscal years last concluded, and the estimated income and receipts, for each budget unit of the branch of government for the current fiscal year and each of the next two (2) fiscal years.
- (b) The statements of income and estimated income shall be itemized by budget unit and fund, and shall show separately receipts from:
 1. Current income;
 2. Refunds and reimbursements of expenditures;
 3. The sale of assets; and
 4. Receipts on account of the income of prior years.
- (c) Existing sources of income and receipts shall be analyzed as to their equity, productivity and need for revision, and any proposed new sources of income or receipts shall be explained;
- (3) A statement of the surplus in any account and in any special fund of the branch of government. If a surplus exists in any account of the branch of government the statement shall show the excess of all current assets over all current liabilities as of the beginning of each of the two (2) fiscal years last concluded, and all changes in these accounts during each of such two (2) fiscal years;
- (4) A statement as of the close of the last completed fiscal year and as of the close of the current fiscal year showing, for each budget unit the total funded debt, the value of sinking fund assets, the net funded debt, the floating liabilities as of the end of the current fiscal year, and the total debt as of the close of the last completed fiscal year and as of the close of the current fiscal year;
- (5) Summary and detailed comparative statements of expenditures itemized by budget unit for each of the two (2) fiscal years last concluded and requests for appropriations by funds or accounts, the budget of the current year, and the recommendations for appropriations for each of the next two (2) fiscal years. Following the lists of actual and proposed expenditures of each budget unit there shall be a detailed explanation of the actual and proposed expenditures, to include activities, beneficiaries and expected results of the programs or services of the budget units;
- (6) A draft of the proposed branch budget bill containing:
 - (a) Recommendations of the branch of government for appropriations for the next two (2) fiscal years, and drafts of such revenue and other acts as may be recommended for implementing the proposed financial plan;
 - (b) Recommended appropriations for extraordinary expenses and capital outlays, which shall be itemized in the proposed branch budget bill for the branch by budget unit. The title of each budget unit shall be worded to limit each appropriation to the specific use or purpose intended;
 - (c) A plan for the reduction of the branch budget if there is a revenue shortfall of five percent (5%) or less in the general fund or road fund. In recommending budget reductions, the Governor, the Chief Justice, and the Legislative Research Commission shall not recommend universal percentage reductions, but shall weigh the needs of all budget units and shall strive to protect the highest possible level of service in their respective branches. Services which are not essential to constitutional functions shall be subject to reduction. Transfer of funds may be authorized by the budget reduction plan;
 - (d)
 1. A plan for the expenditure of a general fund or road fund surplus of up to two and one-half percent (2.5%).
 2. The plan shall include provisions for the expenditure of a surplus, and may provide for additional moneys for nonrecurring expenditures for which an appropriation was not made in a branch budget bill, or for a program or service authorized by law for which an appropriation was not made, or which was not fully funded.
 3. In lieu of recommending the appropriation of funds, the plan may instead recommend the retention of surplus funds in the surplus account of the general fund or road fund for investment until appropriated by the General Assembly;
 - (e)
 1. A recommended state capital projects program and a recommended program for the purchase of major items of equipment.
 2. The recommended capital construction program shall include:

- a. A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and
 - b. For each project:
 - i. The agency and purpose for which it will be used;
 - ii. The justification for the project;
 - iii. Its estimated completion date;
 - iv. The total estimated cost of completing the project;
 - v. The estimated cost of the project during the biennium;
 - vi. The recommended sources of funds for the entire project; and
 - vii. The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.
3. All information required by subparagraph 2. of this paragraph shall be included in each branch budget recommendation. Each branch budget bill shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraph 2.b.v., vi., and vii. of this paragraph.
4. A report which details the effect of recommended new debt on the debt position of the Commonwealth shall be submitted at the same time the recommended capital program is submitted. Information shall be presented separately, and in total, for the general fund, road fund, and any affected restricted fund account.
5. Information in the report shall include but not be limited to the following:
- a. Debt service on existing appropriation-supported debt, as a percentage of anticipated total revenues;
 - b. Debt service on existing appropriation-supported debt, as a percentage of anticipated available revenues;
 - c. The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percentage of anticipated total revenues;
 - d. The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percentage of anticipated available revenues;
 - e. The sum of debt service on existing appropriation-supported debt and debt service on recommended new appropriation-supported debt, as a percentage of estimated state total personal income; and
 - f. The sum of existing appropriation-supported debt and recommended new appropriation-supported debt, as a percentage of estimated state total personal income.
6. The recommended program for the purchase of major items of equipment submitted by the head of each branch of government shall include:
- a. A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and
 - b. For each major item of equipment:
 - i. The agency and purpose for which it will be used;
 - ii. The justification for the purchase;
 - iii. The estimated cost of the item, including ancillary expenses and any expenses necessary to make the equipment functional and operational;
 - iv. The recommended sources of funds; and

- v. The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.
- 7. All information required by subparagraph 5. of this paragraph shall be included in the executive branch budget recommendation. The branch budget bill for the executive branch shall contain only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraph 6.b.iii., iv., and v. of this paragraph;
- (f) The branch budget recommendation for the Transportation Cabinet shall include the following information:
 - 1. A separate branch budget bill;
 - 2. A recommended biennial highway construction plan, which shall be presented as a separate bill, and which shall include a list of individual transportation projects included in the last four (4) years of the six (6) year road plan, not to exceed ten percent (10%) of the recommended biennial highway construction appropriation, which can be advanced if:
 - a. Additional funds are received; and
 - b. All projects included in the biennial highway construction plan have been advanced or completed to the extent possible; and
 - 3. The six (6) year road plan. The Governor shall have ten (10) working days after submission of the branch budget recommendation and the recommended biennial highway construction plan to submit the six (6) year road plan. The six (6) year road plan shall be submitted in a form and format cooperatively developed by the Transportation Cabinet and the General Assembly and approved by the Legislative Research Commission; and
- (g)
 - 1. In the executive branch budget recommendation, as a separate section, an amount sufficient to meet unexpected contingencies or emergencies, including but not limited to natural or man-made disasters, civil disorders, court orders requiring or resulting in the expenditure of state funds, or other related causes.
 - 2. The amount shall be based on the nature, type, and frequency of named categories of events which may, from past experience, be reasonably anticipated.
 - 3. This portion of the budget recommendation shall detail similar incidents and the nature and amount of the expenditures for each during the ten (10) years immediately preceding.

The total amount of appropriations recommended from any fund shall not exceed the cash resources estimated to be available and to become available to meet expenditures under the appropriations;

- (7) A certificate of the branch of government as to the accuracy of the statements of financial condition, of income and receipts, and of expenditures; and
 - (8) Such other information as is deemed desirable, or is required by law or regulation.
- ➔Section 39. KRS 48.120 is amended to read as follows:
- (1) By August 15 of each odd-numbered year, the Office of State Budget Director, in conjunction with the consensus forecasting group, shall provide to each branch of government a budget planning report. The budget planning report shall include:
 - (a) A baseline analysis and projections of economic conditions and outlook;
 - (b) Any potential consequences of the analysis and projections for the Commonwealth's fiscal condition;
 - (c) The revenue estimates and implications for the general fund and road fund for the current fiscal year and next four (4) fiscal years; and
 - (d) Projections of personal income, employment, and economic indicators that reflect economic conditions.
 - (2) By October 15 of each odd-numbered year, the Office of State Budget Director shall provide to each branch of government preliminary revenue estimates made by the consensus forecast group for the general fund and road fund for the current and next two (2) fiscal years, including explanatory statements, and a comparative record of the actual revenues of these funds for each of the last two (2) years concluded.

- (3) **By December 20 of each odd-numbered year**~~[On or before the fifteenth legislative day]~~, the Office of State Budget Director shall certify and present to the **Legislative Research Commission**~~[General Assembly]~~ the official revenue estimates made by the consensus forecasting group for the general fund and road fund for the current and next two (2) fiscal years.
- (4) Appropriations made in the branch budget bills enacted for each branch of government shall be based upon the official revenue estimates presented to the **Legislative Research Commission**~~[General Assembly]~~ by the Office of State Budget Director under subsection (3) of this section, as modified by the General Assembly.
- (5) The enacted estimates shall become the official revenue estimates of the Commonwealth upon the branch budget bills becoming law, and shall remain the official revenue estimates of the Commonwealth until revised by the consensus forecasting group as provided in KRS 48.115.

➔Section 40. KRS 48.170 is amended to read as follows:

In addition to the requirements set forth in this chapter, the **standing**~~[appropriations]~~ committees of each house or **interim joint committees of** the Legislative Research Commission, as appropriate, may require additional information and **shall**~~[may]~~ prescribe the form in which such additional information shall be submitted as a part of, or in support of, a branch budget recommendation. **The information shall be submitted within fourteen (14) days of the request unless an extension is granted by the requesting staff person. The extension shall not exceed seven (7) days from the date the extension was granted.**

➔Section 41. KRS 48.300 is amended to read as follows:

- (1) The financial plan for each fiscal year~~[as presented in the branch budget recommendation]~~ shall be adopted, with any modifications made by the General Assembly, by the passage of a branch budget bill for each branch of government, and any revenue and other acts as necessary.
- (2) With regard to the Transportation Cabinet, the General Assembly shall:
 - (a) Enact, as a separate bill, a branch budget for the Transportation Cabinet;
 - (b) Enact, as a separate bill, the biennial highway construction plan, as amended by the General Assembly, including identification of projects from the last four (4) years of the six (6) year road plan that may be moved forward, and the conditions and requirements under which the identified projects may be moved forward; and
 - (c) Adopt the last four (4) years of the six (6) year road plan, as amended by the General Assembly, as a joint resolution.

➔Section 42. KRS 48.810 is amended to read as follows:

Each~~[program]~~ cabinet, the Department for Local Government, the Department of Military Affairs, and the Commonwealth Office of Technology shall develop and submit a four (4) year strategic plan to meet the broad goals outlined by the Governor and shall submit an electronic copy of the full plan and an electronic copy of a brief summary of that plan to the state budget director, the secretary of the Executive Cabinet, and the Legislative Research Commission with each biennial budget request.

- (1) Each strategic plan shall include but not be limited to:
 - (a) A statement of the cabinet or administrative entity's value, vision, and mission;
 - (b) A statement of how the cabinet or administrative entity's strategic plan is aligned with the Governor's goals and linked to the budget request **by program** and the six (6) year capital plan of the cabinet or administrative entity;
 - (c) A brief summary of a situation analysis conducted by the~~[program]~~ cabinet or administrative entity;
 - (d) Identification of measurable goals for the next four (4) years **by program**;
 - (e) Specification of objectives to meet the stated goals **by program**;
 - (f) Identification of performance indicators to be used to measure progress toward meeting goals and objectives **by program**; and
 - (g) A progress report providing data and information on the performance indicators set forth in the~~[program]~~ cabinet or administrative entity's most recent strategic plan.

- (2) On or before September 1 of each even-numbered fiscal year, ~~the~~ ~~program~~ cabinets and administrative entities which have submitted strategic plans in the previous fiscal year shall submit a progress report to the Office of ~~the~~ State Budget Director, or its designee, which provides data and information regarding the progress the ~~program~~ cabinet or entity has made toward meeting its goals as measured by performance indicators set forth in the cabinet's or entity's most recent strategic plan.
- (3) The state budget director shall designate an entity to develop and implement a methodology for strategic planning and progress reporting for use by ~~the~~ ~~program~~ cabinets and administrative entities submitting strategic plans and progress reports pursuant to this section. The entity designated by the state budget director shall develop and make available a training course in strategic planning that is appropriate for and targeted to state government managers, and shall make that training course available to state managers and their designees who have responsibility for the completion of a strategic plan as required by this section.
- (4) The Commonwealth Office of Technology shall maintain uniform electronic strategic plan and progress report submission forms and a procedure that allows all plans and progress reports to be entered into an electronic database that is searchable by interested parties. The database shall be developed and maintained in a form that complies with all provisions of KRS 48.950, 48.955, and 48.960. The Commonwealth Office of Technology shall develop and maintain a program to provide public access to submitted plans and progress reports.

➔Section 43. KRS 48.950 is amended to read as follows:

- (1) In order to effectuate the constitutional power and duty of the General Assembly to raise and appropriate revenue and approve and adopt a balanced budget, and in order that members and committees of the General Assembly and the Legislative Research Commission may be informed on a continuous basis about current and prospective financial conditions and budgetary needs of the Commonwealth and its budget units, the Kentucky General Assembly finds and declares that uniform detailed budget data and records relating to expenditures, receipts and activities and the budgetary operations of all budget units must be available in electronic and print form to the General Assembly and the Legislative Research Commission on a continuous and timely basis, ***including the electronic accounting and budgeting systems utilized by all branches of state government such as the Enhanced Management Reporting System and the Kentucky Budgeting System.***
- (2) The contents of all electronic and print forms, records, data and procedures established under KRS 48.955 and 48.960 shall pertain to:
 - (a) The submission of budget unit requests and branch budget recommendations;
 - (b) The adoption of budget bills;
 - (c) The allotments under, and authorized adjustments and revisions to, the enacted budget;
 - (d) The receipts and disbursements of budget funds pursuant to appropriations enacted by the General Assembly; and
 - (e) The financial and budgetary conditions of the Commonwealth and branch budget units.

These contents, forms and records shall be standard and uniform for all budget units.

- (3) The Governor, the Chief Justice and the Legislative Research Commission for their respective branches and budget units, shall cause to be created, maintained and transmitted in electronic form the data, records and procedures necessary to fulfill the intent and purposes of KRS 48.955 and 48.960 and which may be provided by KRS 48.955 and 48.960.

➔Section 44. KRS 45A.837 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 45A.800 to 45A.835, the Finance and Administration Cabinet and the Transportation Cabinet may enter into price contracts for architectural, engineering, and engineering-related services. If the agencies choose to enter into a price contract, subsection (2) of this section shall apply.
- (2) Price contracts shall be awarded to firms qualified by the Finance and Administration Cabinet, Department of Facilities Management or by the Transportation Cabinet, Department of Highways. The Finance and Administration Cabinet selection committee established by KRS 45A.810 shall meet at least quarterly during each fiscal year to review and make recommendations to the commissioner of the Department for Facilities Management for qualification of interested firms. The Transportation Cabinet selection committee established by KRS 45A.810 shall meet at least quarterly during each fiscal year to review and make recommendations to the commissioner of the Department of Highways for qualification of interested firms.

- (a) The respective committees shall evaluate those firms submitting statements of interest in obtaining a price contract. The submitting firms shall be reviewed according to the following criteria:
 1. Qualifications;
 2. Ability of professional personnel; and
 3. Past record and experience.
 - (b) Firms qualified by the commissioner of the Department for Facilities Management or by the commissioner of the Department of Highways shall be awarded price contracts by the respective departments for the type of work for which they have been qualified.
 - (c) The commissioner of the Department for Facilities Management or the commissioner of the Department of Highways may select firms to perform work under price contract for small projects for which the architectural, engineering, or engineering-related fees do not exceed **one hundred fifty**~~[seventy five]~~ thousand dollars **(\$150,000)**~~[(75,000)]~~. However, no firm that has received more than **three**~~[one]~~ hundred~~[fifty]~~ thousand dollars **(\$300,000)**~~[(150,000)]~~ in price contract fees in any one (1) fiscal year in the contract discipline being awarded shall be selected to work under a price contract unless the secretary of finance and administration or the secretary of transportation makes a written determination that the selection is in the best interest of the Commonwealth and the determination is confirmed by the appropriate cabinet's selection committee established by KRS 45A.810.
- (3) Notwithstanding any provision of the Kentucky Revised Statutes, no price contract shall be awarded under the provisions of this section before completion of the review procedure provided for in KRS 45A.695 and 45A.705.

➔SECTION 45. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

The following classes of property shall be exempt from state and local ad valorem taxes, including the county, city, school, and other taxing district in which it has a taxable situs:

- (1) *Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his or her farm operations;*
- (2) *Livestock, ratite birds, and domestic fowl;*
- (3) *Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. secs. 81a to 81u, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;*
- (4) *Property that is certified as an alcohol production facility as defined in KRS 247.910;*
- (5) *Property that is certified as a fluidized bed energy production facility as defined in KRS 211.390;*
- (6) *Computer software, except prewritten computer software as defined in Section 6 of this Act;*
- (7) *Trucks, tractors, and buses used on routes or in systems that are partly within and partly outside this state, and that are subject to the fee imposed by KRS 136.188;*
- (8) *Semitrailers and trailers, as defined in KRS 189.010, if the semitrailers or trailers are used on a route or in a system that is partly within and partly outside this state. Semitrailers or trailers required to be registered under KRS 186.655 that are used only in this state shall be subject to the ad valorem tax imposed by KRS 132.487;*
- (9) *All intangible personal property, except intangible personal property assessed under KRS 132.030 or KRS Chapter 136. Nothing in this subsection shall prohibit local taxation of franchises of:*
 - (a) *Corporations;*
 - (b) *Financial institutions as provided in KRS 136.575; or*
 - (c) *Domestic life insurance companies;*
- (10) *All real and personal property owned by another state or a political subdivision of another state that is used exclusively for public purposes, if a comparable exemption is provided in that state or political subdivision for property owned by the Commonwealth of Kentucky or its political subdivisions;*

- (11) *Every fraternal benefit society organized or licensed under Subtitle 29 of KRS Chapter 304 that is a charitable and benevolent institution, and its funds shall be exempt from all state, county, district, city, and school taxes, other than taxes on real property and office equipment; and*
- (12) (a) *Any bridge built by an adjoining state, by the government of the United States, or by any commission created by an Act of Congress, over a boundary line stream between this state and an adjoining state, which is:*
1. *Not operated for profit and, if it connects with a primary highway of this state, is declared to be public property used for public purposes; and*
 2. *Exempt from taxation unless the adjoining state, or other public body constructing the bridge, taxes similar bridges built by this Commonwealth in like manner.*
- (b) *The issuance of bonds for the purpose of amortizing the cost of construction of the bridges, as described in paragraph (a) of this subsection, shall not affect the tax exemption granted.*

➔Section 46. KRS 132.020 is amended to read as follows:

- (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes at the rate of:
- (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100) of value of all real property directed to be assessed for taxation;
 - (b) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of all motor vehicles qualifying for permanent registration as historic motor vehicles under KRS 186.043;
 - (c) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all:
 1. Machinery actually engaged in manufacturing;
 2. Commercial radio and television equipment used to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or electronic signals which are broadcast over the air to an antenna, including radio and television towers used to transmit or facilitate the transmission of the signal broadcast and equipment used to gather or transmit weather information, but excluding telephone and cellular communication towers; and
 3. Tangible personal property which has been certified as a pollution control facility as defined in KRS 224.1-300. In the case of tangible personal property certified as a pollution control facility which is incorporated into a landfill facility, the tangible personal property shall be presumed to remain tangible personal property for purposes of this paragraph if the tangible personal property is being used for its intended purposes;
 - (d) Ten cents (\$0.10) upon each one hundred dollars (\$100) of value on the operating property of railroads or railway companies that operate solely within the Commonwealth;
 - (e) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods held for sale in the regular course of business, which includes:
 1. Machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement;
 2. Motor vehicles:
 - a. Held for sale in the inventory of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to KRS 186A.230; or
 - b. That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer;
 3. Raw materials, which includes distilled spirits and distilled spirits inventory;
 4. In-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business; and
 5. Qualified heavy equipment;
 - (f) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all:

1. Privately owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, upon the prior approval of the Kentucky Economic Development Finance Authority, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
 2. Qualifying voluntary environmental remediation property, provided the property owner has corrected the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Energy and Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not financed through a public grant or the petroleum storage tank environmental assurance fund. This rate shall apply for a period of three (3) years following the Energy and Environment Cabinet's issuance of a No Further Action Letter or its equivalent, after which the regular tax rate shall apply;
 3. Tobacco directed to be assessed for taxation;
 4. Unmanufactured agricultural products;
 5. Aircraft not used in the business of transporting persons or property for compensation or hire;
 6. Federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes; and
 7. Privately owned leasehold interests in residential property described in KRS 132.195(2)(g); **and**
- (g) ~~One tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all:~~
1. ~~Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations;~~
 2. ~~Livestock and domestic fowl;~~
 3. ~~Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board; and~~
 4. ~~Property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390; and~~
- (h) Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in KRS 132.030, 132.200, 136.300, and 136.320, providing a different tax rate for particular property.
- (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%), excluding:
 - (a) The assessment of new property as defined in KRS 132.010(8);
 - (b) The assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1)(f) of this section. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.
 - (3) By July 1 each year, the department shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (2) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the department shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the department, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the

previous year have been determined to be acceptable by the department, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

- (4) If the tax rate set by the department as provided in subsection (2) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding:
- (a) The revenue resulting from new property as defined in KRS 132.010(8);
 - (b) The revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1) of this section;

the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

- (5) The provisions of subsection (2) of this section notwithstanding, the assessed value of unmined coal certified by the department after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (2) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Office of Energy Policy for the purpose of public education of coal-related issues.

➔Section 47. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the class of property described in KRS 132.030 and the following classes of property, which shall be subject to taxation for state purposes only:

- (1) ~~Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;~~
- (2) ~~Livestock, ratite birds, and domestic fowl;~~
- ~~(3)~~ Capital stock of savings and loan associations;
- (2)~~(4)~~ Machinery actually engaged in manufacturing, products in the course of manufacture, and raw material actually on hand at the plant for the purpose of manufacture. The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be manufacturing;
- (3)~~(5)~~
 - (a) Commercial radio and television equipment used to receive, capture, produce, edit, enhance, modify, process, store, convey, or transmit audio or video content or electronic signals which are broadcast over the air to an antenna;
 - (b) Equipment directly used or associated with the equipment identified in paragraph (a) of this subsection, including radio and television towers used to transmit or facilitate the transmission of the signal broadcast, but excluding telephone and cellular communications towers; and
 - (c) Equipment used to gather or transmit weather information;
- (4)~~(6)~~ Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (\$0.015) on each one hundred dollars (\$100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (\$0.045) on each one hundred dollars (\$100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;
- (5)~~(7)~~ All privately owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of

KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

- ~~(6)~~~~(8)~~ Tangible personal property which has been certified as a pollution control facility as defined in KRS 224.1-300. In the case of tangible personal property certified as a pollution control facility which is incorporated into a landfill facility, the tangible personal property shall be presumed to remain tangible personal property for purposes of this subsection if the tangible personal property is being used for its intended purposes;{
- ~~(9)~~—Property which has been certified as an alcohol production facility as defined in KRS 247.910;]
- ~~(7)~~~~(10)~~ On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;{
- ~~(11)~~—Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;]
- ~~(8)~~~~(12)~~ Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;{
- ~~(13)~~—Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;]
- ~~(9)~~~~(14)~~ All motor vehicles:
- (a) Held for sale in the inventory of a licensed motor vehicle dealer, including motor vehicle auction dealers, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230;
 - (b) That are in the possession of a licensed motor vehicle dealer, including licensed motor vehicle auction dealers, for sale, although ownership has not been transferred to the dealer; and
 - (c) With a salvage title held by an insurance company;
- ~~(10)~~~~(15)~~ Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.010;
- ~~(11)~~~~(16)~~ New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800;
- ~~(12)~~~~(17)~~ New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220;
- ~~(13)~~~~(18)~~ Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs;
- ~~(14)~~~~(19)~~ Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs;
- ~~(15)~~~~(20)~~ Any nonferrous metal that conforms to the quality, shape, and weight specifications set by the New York Mercantile Exchange's special contract rules for metals, and which is located or stored in a commodity warehouse and held on warrant, or for which a written request has been made to a commodity warehouse to place it on warrant, according to the rules and regulations of a trading facility. In this subsection:
- (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or other facility that has been designated or approved by a trading facility as a regular delivery point for a commodity on contracts of sale for future delivery; and
 - (b) "Trading facility" means a facility that is designated by or registered with the federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et seq. "Trading facility" includes the Board of Trade of the City of Chicago, the Chicago Mercantile Exchange, and the New York Mercantile Exchange;

- ~~(16)~~~~(21)~~ Qualifying voluntary environmental remediation property for a period of three (3) years following the Energy and Environment Cabinet's issuance of a No Further Action Letter or its equivalent, pursuant to the correction of the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Energy and Environment Cabinet pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, and provided the cleanup was not financed through a public grant program of the petroleum storage tank environmental assurance fund;
- ~~(17)~~~~(22)~~ Biotechnology products held in a warehouse for distribution by the manufacturer or by an affiliate of the manufacturer. For the purposes of this section:
- (a) "Biotechnology products" means those products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms. Biotechnology products does not include pharmaceutical products which are produced from chemical compounds;
 - (b) "Warehouse" includes any establishment that is designed to house or store biotechnology products, but does not include blood banks, plasma centers, or other similar establishments;
 - (c) "Affiliate" means an individual, partnership, or corporation that directly or indirectly owns or controls, or is owned or controlled by, or is under common ownership or control with, another individual, partnership, or corporation;
- ~~(18)~~~~(23)~~ Recreational vehicles held for sale in a retailer's inventory;
- ~~(19)~~~~(24)~~ A privately owned leasehold interest in residential property described in KRS 132.195(2)(g), if an exemption is approved by the county, city, school, or other taxing district in which the residential property is located; and
- ~~(20)~~~~(25)~~ Prefabricated homes held for sale in a manufacturer's or retailer's inventory.

➔Section 48. KRS 139.210 is amended to read as follows:

- (1) Except as provided in ~~subsections~~~~[subsection]~~ (2) **and** (3) of this section, the tax shall be required to be collected by the retailer from the purchaser. The tax shall be displayed separately from the sales price, the price advertised in the premises, the marked price, or other price on the sales receipt or other proof of sales.
- (2) The department may relieve certain retailers from the **requirement in**~~[provisions of]~~ subsection (1) of this section of separate display of the tax when the circumstances of the retailer make compliance impracticable. If the retailer establishes to the satisfaction of the department that the sales tax has been added to the total amount of the sales price and has not been absorbed by the retailer, the amount of the sales price shall be the amount received exclusive of the tax imposed.
- (3) ***Retailers that provide road and travel services that are taxable under Section 7 of this Act shall not be required to state the tax separately from the sales price if the retailer can establish and provide evidence that the sales tax has been added to the total amount of the sales price charged to the purchaser and has not been absorbed by the retailer. The amount of the sales price shall be the amount received exclusive of the tax imposed.***
- (4) The taxes collected under this section shall be deemed to be held in trust by the retailer for and on account of the Commonwealth.
- ~~(5)~~~~(4)~~ The taxes to be collected under this section shall constitute a debt of the retailer to the Commonwealth.

➔Section 49. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

- (1) "Current model year" means a motor vehicle of either the model year corresponding to the current calendar year or of the succeeding calendar year, if the same model and make is being offered for sale by local dealers;
- (2) "Dealer" means "motor vehicle dealer" as defined in KRS 190.010;
- (3) "Dealer demonstrator" means a new motor vehicle or a previous model year motor vehicle with an odometer reading of least one thousand (1,000) miles that has been used either by representatives of the manufacturer or by a licensed Kentucky dealer, franchised to sell the particular model and make, for demonstration;
- (4) "Historic motor vehicle" means a motor vehicle registered and licensed pursuant to KRS 186.043;

- (5) "Motor vehicle" means:
- (a) Any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires; **or**
 - (b) **Recreational vehicles;**
- (6) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;
- (7) "New motor vehicle" means a motor vehicle of the current model year which has not previously been registered in any state or country;
- (8) "Previous model year motor vehicle" means a motor vehicle not previously registered in any state or country which is neither of the current model year nor a dealer demonstrator;
- (9) "Total consideration given" means the amount given, valued in money, whether received in money or otherwise, at the time of purchase or at a later date, including consideration given for all equipment and accessories, standard and optional. "Total consideration given" shall not include:
- (a) Any amount allowed as a manufacturer or dealer rebate if the rebate is provided at the time of purchase and is applied to the purchase of the motor vehicle;
 - (b) Any interest payments to be made over the life of a loan for the purchase of a motor vehicle; and
 - (c) The value of any items that are not equipment or accessories including but not limited to extended warranties, service contracts, and items that are given away as part of a promotional sales campaign;
- (10) "Trade-in allowance" means:
- (a) The value assigned by the seller of a motor vehicle to a motor vehicle registered to the purchaser and offered in trade by the purchaser as part of the total consideration given by the purchaser and included in the notarized affidavit attesting to total consideration given; or
 - (b) In the absence of a notarized affidavit, the value of the vehicle being offered in trade as established by the department through the use of the reference manual;
- (11) "Used motor vehicle" means a motor vehicle which has been previously registered in any state or country;
- (12) "Retail price" for:
- (a) New motor vehicles;
 - (b) Dealer demonstrator vehicles;
 - (c) Previous model year motor vehicles; and
 - (d) U-Drive-It motor vehicles that have been transferred within one hundred eighty (180) days of being registered as a U-Drive-It and that have less than five thousand (5,000) miles;
- means the total consideration given, as determined in KRS 138.4603;
- (13) "Retail price" for historic motor vehicles shall be one hundred dollars (\$100);
- (14) "Retail price" for used motor vehicles being titled or registered by a new resident for the first time in Kentucky whose values appear in the reference manual means the trade-in value given in the reference manual;
- (15) "Retail price" for older used motor vehicles being titled or registered by a new resident for the first time in Kentucky whose values no longer appear in the reference manual shall be one hundred dollars (\$100);
- (16) (a) "Retail price" for:
- 1. Used motor vehicles, except those vehicles for which the retail price is established in subsection (13), (14), (15), (17), or (19) of this section; and

2. U-Drive-It motor vehicles that are not transferred within one hundred eighty (180) days of being registered as a U-Drive-It or that have more than five thousand (5,000) miles;

means the total consideration given, excluding any amount allowed as a trade-in allowance by the seller, as attested to in a notarized affidavit, provided that the retail price established by the notarized affidavit shall not be less than fifty percent (50%) of the difference between the trade-in value, as established by the reference manual, of the motor vehicle offered for registration and the trade-in value, as established by the reference manual, of any motor vehicle offered in trade as part of the total consideration given.

- (b) The trade-in allowance shall also be disclosed in the notarized affidavit.
- (c) If a notarized affidavit is not available, "retail price" shall be established by the department through the use of the reference manual;
- (17) Except as provided in KRS 138.470(6), if a motor vehicle is received by an individual as a gift and not purchased or leased by the individual, "retail price" shall be the trade-in value given in the reference manual;
- (18) If a dealer transfers a motor vehicle which he has registered as a loaner or rental motor vehicle within one hundred eighty (180) days of the registration, and if less than five thousand (5,000) miles have been placed on the vehicle during the period of its registration as a loaner or rental motor vehicle, then the "retail price" of the vehicle shall be the same as the retail price determined by paragraph (a) of subsection (12) of this section computed as of the date on which the vehicle is transferred;
- (19) "Retail price" for motor vehicles titled pursuant to KRS 186A.520, 186A.525, 186A.530, or 186A.555 means the total consideration given as attested to in a notarized affidavit;
- (20) "Loaner or rental motor vehicle" means a motor vehicle owned or registered by a dealer and which is regularly loaned or rented to customers of the service or repair component of the dealership;
- (21) "Department" means the Department of Revenue;
- (22) "Notarized affidavit" means a dated affidavit signed by the buyer and the seller on which the signature of the buyer and the signature of the seller are individually notarized;~~and~~
- (23) "Reference manual" means the automotive reference manual prescribed by the department; *and*
- (24) ***"Recreational vehicle" means any motor home, travel trailer, fifth-wheel trailer, pull-behind camper, or pop-up camping trailer, which:***
- (a) Contains living quarters; and***
- (b) Is required to be licensed for use on the public highways.***

➔Section 50. KRS 132.010 is amended to read as follows:

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

- (1) "Department" means the Department of Revenue;
- (2) "Taxpayer" means any person made liable by law to file a return or pay a tax;
- (3) "Real property" includes all lands within this state and improvements thereon;
- (4) "Personal property" includes every species and character of property, tangible and intangible, other than real property;
- (5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his or her actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state;
- (6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair

cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land;

- (7) "Net assessment growth" means the difference between:
- (a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year; and
 - (b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year;
- (8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:
- (a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;
 - (b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;
 - (c) The value of improvements to existing nonresidential property;
 - (d) The value of new residential improvements to property;
 - (e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;
 - (f) Property created by the subdivision of unimproved property, provided, that when the property is reclassified from farm to subdivision by the property valuation administrator, the value of the property as a farm shall be a deletion from that category;
 - (g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;
 - (h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that the property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and
 - (i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year;

- (9) "Agricultural land" means:
- (a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber;
 - (b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or
 - (c) Any tract of land devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government;
- (10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants;
- (11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

- (a) Relative percentages of tillable land, pasture land, and woodland;
 - (b) Degree of productivity of the soil;
 - (c) Risk of flooding;
 - (d) Improvements to and on the land that relate to the production of income;
 - (e) Row crop capability including allotted crops other than tobacco;
 - (f) Accessibility to all-weather roads and markets; and
 - (g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income;
- (12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value;
- (13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including but not limited to lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto;
- (14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner;
- (15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property;
- (16) "Manufactured home" means a structure manufactured after June 15, 1976, in accordance with the National Manufactured Housing Construction and Safety Standards Act, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assignees and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure;
- (17) "Mobile home" means a structure manufactured on or before June 15, 1976, that was not required to be constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure;
- (18) "Modular home" means a structure which is certified by its manufacturer as being constructed in accordance with all applicable provisions of the Kentucky Building Code and standards adopted by the local authority which has jurisdiction, transportable in one (1) or more sections, and designed to be used as a dwelling on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein;
- (19) "Prefabricated home" means a manufactured home, a mobile home, or a modular home;
- (20) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home. As used in this subsection:
- (a) "Travel trailer" means a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of a size or weight that does not require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms;

- (b) "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use;
 - (c) "Truck camper" means a portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck; and
 - (d) "Motor home" means a vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle;
- (21) "Hazardous substances" shall have the meaning provided in KRS 224.1-400;
- (22) "Pollutant or contaminant" shall have the meaning provided in KRS 224.1-400;
- (23) "Release" shall have the meaning as provided in either or both KRS 224.1-400 and KRS 224.60-115;
- (24) "Qualifying voluntary environmental remediation property" means real property subject to the provisions of KRS 224.1-400 and 224.1-405, or 224.60-135 where the Energy and Environment Cabinet has made a determination that:
- (a) All releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products at the property occurred prior to the property owner's acquisition of the property;
 - (b) The property owner has made all appropriate inquiry into previous ownership and uses of the property in accordance with generally accepted practices prior to the acquisition of the property;
 - (c) The property owner or a responsible party has provided all legally required notices with respect to hazardous substances, pollutants, contaminants, petroleum, or petroleum products found at the property;
 - (d) The property owner is in compliance with all land use restrictions and does not impede the effectiveness or integrity of any institutional control;
 - (e) The property owner complied with any information request or administrative subpoena under KRS Chapter 224; and
 - (f) The property owner is not affiliated with any person who is potentially liable for the release of hazardous substances, pollutants, contaminants, petroleum, or petroleum products on the property pursuant to KRS 224.1-400, 224.1-405, or 224.60-135, through:
 - 1. Direct or indirect familial relationship;
 - 2. Any contractual, corporate, or financial relationship, excluding relationships created by instruments conveying or financing title or by contracts for sale of goods or services; or
 - 3. Reorganization of a business entity that was potentially liable;
- (25) "Intangible personal property" means stocks, mutual funds, money market funds, bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits, patents, trademarks, copyrights, tobacco base, allotments, annuities, deferred compensation, retirement plans, and any other type of personal property that is not tangible personal property;
- (26) (a) "County" means any county, consolidated local government, urban-county government, unified local government, or charter county government;
- (b) "Fiscal court" means the legislative body of any county, consolidated local government, urban-county government, unified local government, or charter county government; and
- (c) "County judge/executive" means the chief executive officer of any county, consolidated local government, urban-county government, unified local government, or charter county government;
- (27) "Taxing district" means any entity with the authority to levy a local ad valorem tax, including special purpose governmental entities;
- (28) "Special purpose governmental entity" shall have the same meaning as in KRS 65A.010, and as used in this chapter shall include only those special purpose governmental entities with the authority to levy ad valorem taxes, and that are not specifically exempt from the provisions of this chapter by another provision of the Kentucky Revised Statutes;

- (29) (a) "Broadcast" means the transmission of audio, video, or other signals, through any electronic, radio, light, or similar medium or method now in existence or later devised over the airwaves to the public in general.
- (b) "Broadcast" shall not apply to operations performed by multichannel video programming service providers as defined in KRS 136.602 or any other operations that transmit audio, video, or other signals, exclusively to persons for a fee;
- (30) "Livestock" means cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species;
- (31) "Heavy equipment rental agreement" means the short-term rental contract under which qualified heavy equipment is rented without an operator for a period:
- (a) Not to exceed three hundred sixty-five (365) days; or
- (b) That is open-ended under the terms of the contract with no specified end date;
- (32) "Heavy equipment rental company" means an entity that is primarily engaged in a line of business described in Code 532412 or 532310 of the North American Industry Classification System Manual in effect on January 1, 2019;
- (33) "Qualified heavy equipment" means machinery and equipment, including ancillary equipment and any attachments used in conjunction with the machinery and equipment, that is:
- (a) Primarily used and designed for construction, mining, forestry, or industrial purposes, including but not limited to cranes, earthmoving equipment, well-drilling machinery and equipment, lifts, material handling equipment, pumps, generators, and pollution-reducing equipment; and
- (b) Held in a heavy equipment rental company's inventory for:
1. Rental under a heavy equipment rental agreement; or
 2. Sale in the regular course of business;~~and~~
- (34) "Veteran service organization" means an organization wholly dedicated to advocating on behalf of military veterans and providing charitable programs in honor and on behalf of military veterans;
- (35) ***"Government restriction on use" means a limitation on the use of at least fifty percent (50%) of the individual dwelling units of a multi-unit rental housing in order to receive a federal or state government incentive based on low-income renter restrictions, including the following government incentives:***
- (a) *A tax credit under Section 42 of the Internal Revenue Code;*
- (b) *Financing derived from exempt facility bonds for qualified residential rental projects under Section 142 of the Internal Revenue Code;*
- (c) *A low-interest loan under Section 235 or 236 of the National Housing Act or Section 515 of the Housing Act of 1949;*
- (d) *A rent subsidy;*
- (e) *A guaranteed loan;*
- (f) *A grant; or*
- (g) *A guarantee;*
- (36) ***"Low income" means earning at or below eighty percent (80%) of the area median income as defined by the United States Department of Housing and Urban Development for the location of the multi-unit rental housing; and***
- (37) ***"Multi-unit rental housing" means residential property or project consisting of four (4) or more individual dwelling units and does not include:***
- (a) *Assisted living facilities; or*
- (b) *Duplexes or single-family units unless they are included as part of a larger property that is subject to government restriction on use.*

➔Section 51. KRS 132.191 is amended to read as follows:

- (1) The General Assembly recognizes that Section 172 of the Constitution of Kentucky requires all property, not exempted from taxation by the Constitution, to be assessed at one hundred percent (100%) of the fair cash value, estimated at the price the property would bring at a fair voluntary sale, and that it is the responsibility of the property valuation administrator to value property in accordance with the Constitution.
- (2) The General Assembly further recognizes that property valuation may be determined using a variety of valid valuation methods, including but not limited to:
 - (a) A cost approach, which is a method of appraisal in which the estimated value of the land is combined with the current depreciated reproduction or replacement cost of improvements on the land;
 - (b) An income approach, which is a method of appraisal based on estimating the present value of future benefits arising from the ownership of the property;
 - (c) A sales comparison approach, which is a method of appraisal based on a comparison of the property with similar properties sold in the recent past;~~{and}~~
 - (d) A subdivision development approach, which is a method of appraisal of raw land:
 1. When subdivision and development are the highest and best use of the parcel of raw land being appraised; and
 2. When all direct and indirect costs and entrepreneurial incentives are deducted from the estimated anticipated gross sales price of the finished lots, and the resultant net sales proceeds are then discounted to present value at a market-derived rate over the development and absorption period;
and
 - (e) *The approaches listed in subsection (5) of this section for multi-unit rental housing that is subject to government restriction on use.*
- (3) The valuation of a residential, commercial, or industrial tract development shall meet the minimum applicable appraisal standards established by:
 - (a) The Kentucky Department of Revenue, as stated in its Guidelines for Assessment of Vacant Lots, dated March 26, 2008; or
 - (b) The International Association of Assessing Officers.
- (4) To be appraised using the subdivision development approach, a subdivision development shall consist of five (5) or more units. The appraisal of the development shall reflect deductions and discounts for:
 - (a) Holding costs, including interest and maintenance;
 - (b) Marketing costs, including commissions and advertising; and
 - (c) Entrepreneurial profit.
- (5) (a) *The property valuation of multi-unit rental housing that is subject to government restriction on use may be determined:*
 1. a. *Through an annual net operating income approach to value that uses actual income and stabilized operating expenses that are based on the actual history of the property, when available, and a capitalization rate.*
 - b. *The methodology employed in the projection of income, expenses, and capitalization rate used shall be consistent with the Uniform Standards of Professional Appraisal Practice.*
 - c. *The capitalization rate shall be:*
 - i. *Based on the risks associated with multi-unit rental housing subject to government restriction on use, including diminished ownership control; income generating potential; liquidity; the condition of the property; the class of the property; and the property's location and size;*
 - ii. *Equal to or greater than the capitalization rate used for valuing multi-unit rental housing that is not subject to government restriction on use; and*
 - iii. *In the range of fifty (50) to one hundred fifty (150) basis points above the most recent quarterly survey of the national average cap rates of multifamily*

properties published by realtyrates.com or a successor organization.

- d. *The department shall publish the capitalization rate range for the property valuation administrators to use on its website at the beginning of each year; or*
- 2. *By adjusting the unrestricted market value of the multi-unit rental housing, computed without regard to any government restriction on use applicable to the multi-unit rental housing, based on the ratio of the average annual rent of those units of the property that are subject to government restriction on use to the average annual rent of comparable multi-unit rental housing that is not subject to government restriction on use.*
- (b) *Income tax credits received under Section 42 of the Internal Revenue Code or from any state or federal program shall not be included in the methods used under paragraph (a) of this subsection in determining the income attributable to the multi-unit rental housing or in any separate intangible assessment.*
- (c) 1. *The owner of multi-unit rental housing shall:*
 - a. *Notify the property valuation administrator if:*
 - i. *The property is subject to government restriction on use;*
 - ii. *The property is no longer subject to government restriction on use; or*
 - iii. *A foreclosure action has been brought upon the property; and*
 - b. *File with the property valuation administrator, on a form prescribed by the department, the information necessary for the multi-unit rental housing to be valued based on the methods described in paragraph (a) of this subsection.*
- 2. *The notification shall be in writing and submitted to the property valuation administrator within sixty (60) days of the date on which the applicable circumstance listed in subparagraph 1.a. i., ii., or iii. of this paragraph occurred.*
- 3. *An owner who fails to comply with this paragraph may be subject to penalties in an amount not to exceed two hundred dollars (\$200) as determined by the department.*
- (d) *The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to adopt forms, penalties, and procedures to carry out this subsection.*

➔Section 52. The following KRS sections are repealed:

- 132.098 Exemption from state and local ad valorem tax of computer software, except prewritten computer software.
- 132.192 Property tax exemption reciprocity.
- 132.205 Exemption of bridges built by adjoining state, United States or commission created by Act of Congress over boundary line stream -- Bonds.
- 132.208 Exemption of intangible personal property from state and local ad valorem taxes -- Local taxation permitted.
- 132.210 Exemption of fraternal benefit societies' funds.
- 132.760 Exemption from ad valorem taxes for trucks, tractors, buses, and trailers used both in and outside Kentucky and subject to KRS 136.188 fee.

➔Section 53. The Department of Revenue shall provide a report on or before November 1, 2023, to the Interim Joint Committee on Appropriations and Revenue outlining the following details related to a centralized tax reporting and distribution system for state and local transient room taxes, including:

- (1) A proposed scope of work considering how a state and local centralized tax reporting and distribution system will integrate with legacy systems currently operational within the department;
- (2) An estimated time line for developing and implementing a centralized system;
- (3) An estimated cost for developing and implementing a centralized system;
- (4) An estimate of the cost of maintaining a centralized system, including temporary or permanent personnel needs;

(5) Any recommendations for statutory changes which may be necessary to develop and implement a centralized system, considering both the time and cost for development and implementation; and

(6) Experiences, both good and bad, from other states that have developed or implemented a centralized system.

➔Section 54. Notwithstanding subsection (2)(a) of Section 34 of this Act, the initial terms of private citizens appointed to the Rural Housing Trust Fund Advisory Committee under subsection (1)(d) of Section 34 of this Act shall be staggered as follows:

- (1) Two members shall be appointed for a three-year term;
- (2) Two members shall be appointed for a two-year term; and
- (3) Two members shall be appointed for a one-year term.

➔Section 55. Section 4 of this Act applies retroactively to January 1, 2023, except that any penalty imposed under subsection (11) of Section 4 of this Act and any interest imposed under KRS 131.183 shall not apply to a return required to be filed under subsection (3)(b) of Section 4 of this Act before the effective date of this Act if the return is filed and the tax is paid by the twentieth day of the month following the effective date of this Act. Notwithstanding KRS 131.183, interest shall not be allowed or paid on a refund related to the amendments made in Section 4 of this Act.

➔Section 56. Section 5 of this Act takes effect on January 1, 2024.

➔Section 57. Sections 6 to 15 of this Act apply retroactively to January 1, 2023. Notwithstanding KRS 131.183, interest shall not be allowed or paid on a refund related to the amendments made in Sections 6 to 15 of this Act.

➔Section 58. Whereas many of the provisions of this Act impact tax returns currently being filed by taxpayers, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 24, 2023.

CHAPTER 93

(SB 145)

AN ACT relating to interscholastic athletics.

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

➔Section 1. KRS 156.070 is amended to read as follows:

- (1) The Kentucky Board of Education shall have the management and control of the common schools and all programs operated in these schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.
- (2) The Kentucky Board of Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that any administrative hearing conducted by the designated managing organization or agency shall be conducted in accordance with KRS Chapter 13B.
 - (a) The state board or its designated agency shall assure through promulgation of administrative regulations that if a secondary school sponsors or intends to sponsor an athletic activity or sport that is similar to a sport for which National Collegiate Athletic Association members offer an athletic scholarship, the school shall sponsor the athletic activity or sport for which a scholarship is offered. The administrative regulations shall specify which athletic activities are similar to sports for which National Collegiate Athletic Association members offer scholarships.
 - (b) Beginning with the 2003-2004 school year, the state board shall require any agency or organization designated by the state board to manage interscholastic athletics to adopt bylaws that establish as members of the agency's or organization's board of control one (1) representative of nonpublic member

schools who is elected by the nonpublic school members of the agency or organization from regions one (1) through eight (8) and one (1) representative of nonpublic member schools who is elected by the nonpublic member schools of the agency or organization from regions nine (9) through sixteen (16). The nonpublic school representatives on the board of control shall not be from classification A1 or D1 schools. Following initial election of these nonpublic school representatives to the agency's or organization's board of control, terms of the nonpublic school representatives shall be staggered so that only one (1) nonpublic school member is elected in each even-numbered year.

- (c) The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or by laws that prohibit pupils in grades seven (7) to eight (8) from participating in any high school sports except for high school varsity soccer and football, or from participating on more than one (1) school-sponsored team at the same time in the same sport. The Kentucky Board of Education, or an agency designated by the board to manage interscholastic athletics, may promulgate administrative regulations restricting, limiting, or prohibiting participation in high school varsity soccer and football for students who have not successfully completed the eighth grade.
- (d) 1. The state board or any agency designated by the state board to manage interscholastic athletics shall allow a member school's team or students to play against students of a ~~nonmember~~ **nonmember** at-home private school, or a team of students from ~~nonmember~~ **nonmember** at-home private schools, if the ~~nonmember~~ **nonmember** at-home private schools and students comply with this subsection.
2. A ~~nonmember~~ **nonmember** at-home private school's team and students shall comply with the rules for student-athletes, including rules concerning:
- a. Age;
 - b. School semesters;
 - c. Scholarships;
 - d. Physical exams;
 - e. Foreign student eligibility; and
 - f. Amateurs.
3. A coach of a ~~nonmember~~ **nonmember** at-home private school's team shall comply with the rules concerning certification of member school coaches as required by the state board or any agency designated by the state board to manage interscholastic athletics.
4. This subsection shall not allow a ~~nonmember~~ **nonmember** at-home private school's team to participate in a sanctioned:
- a. Conference;
 - b. Conference tournament;
 - c. District tournament;
 - d. Regional tournament; or
 - e. State tournament or event.
5. This subsection does not allow eligibility for a recognition, award, or championship sponsored by the state board or any agency designated by the state board to manage interscholastic athletics.
6. A ~~nonmember~~ **nonmember** at-home private school's team or students may participate in interscholastic athletics permitted, offered, or sponsored by the state board or any agency designated by the state board to manage interscholastic athletics.
- (e) Every local board of education shall require an annual medical examination performed and signed by a physician, physician assistant, advanced practice registered nurse, or chiropractor, if performed within the professional's scope of practice, for each student seeking eligibility to participate in any school athletic activity or sport. The Kentucky Board of Education or any organization or agency designated by the state board to manage interscholastic athletics shall not promulgate administrative regulations or adopt any policies or bylaws that are contrary to the provisions of this paragraph.

- (f) Any student who turns nineteen (19) years of age prior to August 1 shall not be eligible for high school athletics in Kentucky. Any student who turns nineteen (19) years of age on or after August 1 shall remain eligible for that school year only. An exception to the provisions of this paragraph shall be made, and the student shall be eligible for high school athletics in Kentucky if the student:
1. Qualified for exceptional children services and had an individual education program developed by an admissions and release committee (ARC) while the student was enrolled in the primary school program;
 2. Was retained in the primary school program because of an ARC committee recommendation; and
 3. Has not completed four (4) consecutive years or eight (8) consecutive semesters of eligibility following initial promotion from grade eight (8) to grade nine (9).
- (g) The state board or any agency designated by the state board to manage interscholastic athletics shall promulgate administrative regulations or bylaws that provide that:
1. A member school shall designate all athletic teams, activities, and sports for students in grades six (6) through twelve (12) as one (1) of the following categories:
 - a. "Boys";
 - b. "Coed"; or
 - c. "Girls";
 2. The sex of a student for the purpose of determining eligibility to participate in an athletic activity or sport shall be determined by:
 - a. A student's biological sex as indicated on the student's original, unedited birth certificate issued at the time of birth; or
 - b. An affidavit signed and sworn to by the physician, physician assistant, advanced practice registered nurse, or chiropractor that conducted the annual medical examination required by paragraph (e) of this subsection under penalty of perjury establishing the student's biological sex at the time of birth;
 3.
 - a. An athletic activity or sport designated as "girls" for students in grades six (6) through twelve (12) shall not be open to members of the male sex.
 - b. Nothing in this section shall be construed to restrict the eligibility of any student to participate in an athletic activity or sport designated as "boys" or "coed"; and
 4. Neither the state board,~~nor~~ any agency designated by the state board to manage interscholastic athletics,~~nor~~ any school district, nor any member school shall entertain a complaint, open an investigation, or take any other adverse action against a school for maintaining separate interscholastic or intramural athletic teams, activities, or sports for students of the female sex.
- (h)
1. The state board or any agency designated by the state board to manage interscholastic athletics shall promulgate administrative regulations that permit a school district to employ or assign nonteaching or noncertified personnel or personnel without postsecondary education credit hours to serve in a coaching position. The administrative regulations shall give preference to the hiring or assignment of certified personnel in coaching positions.
 2. A person employed in a coaching position shall be a high school graduate and at least twenty-one (21) years of age and shall submit to a criminal background check in accordance with KRS 160.380.
 3. The administrative regulations shall specify post-hire requirements for persons employed in coaching positions.
 4. The regulations shall permit a predetermined number of hours of professional development training approved by the state board or its designated agency to be used in lieu of postsecondary education credit hour requirements.
 5. A local school board may specify post-hire requirements for personnel employed in coaching positions in addition to those specified in subparagraph 3. of this paragraph.

- (i) ***Unless permitted to be eligible for varsity athletics by any transfer rule, policy, or administrative regulation promulgated by the state board or any agency designated by the state board to manage interscholastic athletics, any student who transfers enrollment from a district of residence to a nonresident district under KRS 157.350(4)(b) after enrolling in grade nine (9) and participating in a varsity sport shall be ineligible to participate in interscholastic athletics for one (1) calendar year from the date of the transfer. The state board or any agency designated by the state board to manage interscholastic athletics may adopt rules, policies, and bylaws and promulgate administrative regulations necessary to carry out this paragraph.***
- (j) No member school shall grant a student-athlete the right to use the member school's intellectual property, such as trademarks, school uniforms, and copyrights, in the student's earning of compensation through name, image, and likeness activities. No student-athlete shall use such intellectual property in earning compensation through name, image, and likeness activities. The state board or any agency designated by the state board to manage interscholastic athletics shall promulgate administrative regulations to govern and enforce this paragraph.
- (3) (a) The Kentucky Board of Education is hereby authorized to lease from the State Property and Buildings Commission~~[,]~~ or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction~~[,]~~ throughout the Commonwealth~~[,]~~ and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then-current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums, July 1 in each even year to June 30 in the next ensuing even year; and the rentals may be fixed at the sums in each biennium, if renewed, sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on, and provide reserves for, any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities~~[,]~~ with appurtenances~~[,]~~ and costs as may be incident to the issuance of the bonds.
- (b) Each option of the Kentucky Board of Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission. The option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of the succeeding biennium.
- (c) The Kentucky Board of Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

- (4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be enclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.
- (5) Upon the recommendation of the chief state school officer or his or her designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

Signed by Governor March 24, 2023.

CHAPTER 94

(HB 236)

AN ACT relating to the fiduciary duties owed to the state-administered retirement systems.

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

➔Section 1. KRS 21.450 is amended to read as follows:

- (1) The benefits provided by KRS 21.350 to 21.510 to be paid shall be funded through contract with a reputable life insurance company authorized to do business in this state, or through investment and reinvestment of funds in securities which, at the time of making the investment, are by law permitted for the investment of funds by fiduciaries in this state, or through a combination of such methods. To the extent that funding is provided through insurance contract, no contributions, payments or premiums shall be subject to any tax on insurance premiums or annuity considerations. The investment committee for the judicial retirement fund shall be trustee of any and all funds contributed or appropriated to the retirement system, and shall have sole authority to make insurance contracts or investments.
- (2) (a) *For the purposes of this subsection:*
1. *"Solely in the interest of the members and beneficiaries" shall be determined using only pecuniary factors and shall not include any purpose to further a nonpecuniary interest;*
 2. *"Pecuniary factor" means a consideration having a direct and material connection to the financial risk or financial return of an investment;*
 3. *A "material connection" is established if there is a substantial likelihood that a reasonable investor would consider it important in determining the financial risk or the financial return of an investment;*
 4. *"Nonpecuniary interest" includes but is not limited to an environmental, social, political, or ideological interest which does not have a direct and material connection to the financial risk or financial return of an investment; and*
 5. *"Investment manager" shall have the same definition attributed to "investment adviser" under the federal Investment Advisers Act of 1940, 15 U.S.C. sec. 80b-2.*
- (b) The board members, ~~or~~ any investment *manager or other fiduciary, or proxy* adviser shall discharge their duties with respect to the funds of the retirement system solely in the interest of the members and beneficiaries and:
1. ~~(a)~~ For the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan;
 2. ~~(b)~~ With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent *person* ~~man~~ acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

3. ~~(c)~~ In accordance with the *federal, state, and common* laws, regulations and other instruments governing the funds *and fiduciaries*.
- (c) *Evidence that a fiduciary has considered or acted on a nonpecuniary interest shall include but is not limited to:*
1. *Statements, explanations, reports, or correspondence;*
 2. *Communications with portfolio companies;*
 3. *Statements of principles or policies, whether made individually or jointly;*
 4. *Votes of shares or proxies; or*
 5. *Coalitions, initiatives, agreements, or commitments to which the fiduciary is a participant, affiliate, or signatory.*
- (3) Any accrual of benefits provided under this or any other applicable statute shall be no less than the benefit adjustment provided for in KRS 21.405(4) from the date of the last establishment of that benefit.
- (4) The board shall establish ethics policies and procedures by promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A. The ethics policies shall include but not be limited to annual financial and conflict of interest disclosure requirements which must be completed by all board members and made available to the public upon request.
- (5) *In addition to the standards of conduct prescribed by subsection (2) of this section:*
- (a) *Investment managers shall comply with all applicable provisions of the Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other applicable federal securities statutes and related rules and regulations that apply to investment managers; and*
 - (b) *Proxy advisers and proxy voting services shall comply with all applicable provisions of the Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other federal statutes and related rules and regulations that apply to proxy advisers and proxy voting services.*
- (6) *No contract or agreement, whether made in writing or not, shall in any manner waive, restrict, or limit a fiduciary's liability as to any of the duties imposed by this section. Any agreement shall specify that it is made in the Commonwealth and governed by the laws of the Commonwealth.*
- ➔Section 2. KRS 21.540 is amended to read as follows:
- (1) (a) Except as provided in KRS 21.550, 21.560, and subsections (3) and (7) of this section, the board of trustees of the Judicial Form Retirement System shall be charged with the administration of KRS 6.500 to 6.577 and 21.350 to 21.510.
 - (b) The Judicial Form Retirement System shall have all powers necessary to administer KRS 6.500 to 6.577 and 21.350 to 21.510 including the power to promulgate all reasonable administrative regulations, pass upon questions of eligibility and disability, make employments for services, to contract for fiduciary liability insurance, investment counseling, and actuarial, auditing, and other professional services subject to the limitations of KRS Chapters 45, 45A, 56, and 57.
 - (c)
 1. The administrative expenses shall be paid out of an administrative account which shall be funded by transfers of the necessary money, in appropriate ratio, from the funds provided for in KRS 21.550 and 21.560.
 2. Authorization for all administrative expenses relating to the operations of the Judicial Form Retirement System shall be contained in the biennial budget unit request, branch budget recommendations, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.
 3. The request from the Judicial Form Retirement System shall include any specific administrative expenses requested by the board of trustees that are not otherwise specified by this subsection.
- (2) (a) A qualified domestic relations order issued by a court or administrative agency shall be honored by the Judicial Form Retirement System if the order is in compliance with the requirements established by the retirement system.

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

- (m) Investment information, including all investment holdings in aggregate, fees, and commissions for each fund administered by the board, which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2017. The system shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:
1. Disclose the dollar value of fees and commissions paid to each individual manager or partnership;
 2. Disclose the dollar value of any profit sharing, carried interest, or any other partnership incentive arrangements, partnership agreements, or any other partnership expenses received by or paid to each manager or partnership; and
 3. As applicable, report each fee or commission by manager or partnership consistent with standards established by the Institutional Limited Partners Association (ILPA).

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

- (n) An update of net investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund, for each asset class administered by the board, and for each manager over a historical period. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2017;
- (o) All contracts or offering documents for services, goods, or property purchased or utilized by the system. Notwithstanding KRS 61.878, all contracts, including investment contracts, shall be subject to review by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705. If any public record contains material which is not excepted under KRS 61.878, the system shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination;~~and~~
- (p) Information regarding the system's financial and actuarial condition that is easily understood by the members, retired members, and the public; *and*
- (q) All proxy vote reports as provided by subsection (9) of this section.**

Nothing in this subsection shall require or compel the Judicial Form Retirement System to disclose information specific to the account of an individual member of the Legislators' Retirement Plan or the Judicial Retirement Plan.

- (5) No trustee or employee of the board shall:
- (a) Have any interest, direct or indirect, in the gains or profits of any investment or transaction made by the board, provided that the provisions of this paragraph shall not prohibit a member or retiree of one (1) of the retirement plans administered by the system from serving as a trustee;
 - (b) Directly or indirectly, for himself or herself or as an agent, use the assets of the system, except to make current and necessary payments authorized by the board;
 - (c) Become an endorser, surety, or obligor for moneys loaned by or borrowed from the board;
 - (d) Have a contract or agreement with the retirement system, individually or through a business owned by the trustee or the employee;
 - (e) Use his or her official position with the retirement system to obtain a financial gain or benefit or advantage for himself or herself or a family member;
 - (f) Use confidential information acquired during his or her tenure with the systems to further his or her own economic interests or that of another person; or
 - (g) Hold outside employment with, or accept compensation from, any person or business with which he or she has involvement as part of his or her official position with the system. The provisions of this paragraph shall not prohibit:
 1. A trustee from serving as a judge or member of the General Assembly; or
 2. A trustee from serving on the board if the compensation is de minimus and incidental to the trustee's outside employment. If the compensation is more than de minimus, the trustee shall

disclose the amount of the compensation to the other trustees and recuse himself or herself from any matters involving hiring or retaining a person or a business from whom more than de minimus amounts are received by the trustee. For purposes of this section, "de minimus" means an insignificant amount that does not raise a reasonable question as to the trustee's objectivity.

- (6) Notwithstanding any other provision of KRS 6.500 to 6.577 and 21.345 to 21.580 to the contrary, no funds of the Legislators' Retirement Plan or the Judicial Retirement Plan, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to placement agents. For purposes of this subsection, "placement agent" means a third-party individual, who is not an employee, or firm, wholly or partially owned by the entity being hired, who solicits investments on behalf of an investment manager, private fund, or company issuing securities.
- (7) All contracts for the investment or management of assets of the system shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the system shall comply:
- (a) On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;
 - (b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;
 - (c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;
 - (d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;
 - (e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and
 - (f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.
- (8) (a) 1. Upon request by any person, the Judicial Form Retirement System shall release the following information from the accounts of any member or retiree of the Legislators' Retirement Plan or the Judicial Retirement Plan, if the member or retiree is a current or former officeholder in the Kentucky General Assembly:
- a. The first and last name of the member or retiree;
 - b. The plan or plans in which the member has an account or from which the retiree is receiving a monthly retirement allowance;
 - c. The status of the member or retiree, including but not limited to whether he or she is a contributing to the plans but has not retired, or a retiree drawing a monthly retirement allowance;
 - d. If the individual is a retiree, the monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year; and
 - e. If the individual is a member who has not yet retired, the estimated monthly retirement allowance that he or she is eligible to receive on the first date he or she would be eligible for an unreduced retirement allowance, using his or her service credit, final compensation, and accumulated account balance at the end of the most recently completed fiscal year.
2. No information shall be disclosed under this paragraph from an account that is paying benefits to a beneficiary due to the death of a member or retiree.
- (b) The release of information under paragraph (a) of this subsection shall not constitute a violation of the Open Records Act, KRS 61.870 to 61.884.
- (9) (a) ***The board shall adopt:***

1. *Written proxy voting guidelines which are consistent with the fiduciary duties and other requirements of Section 1 of this Act; or*
 2. *The proxy voting guidelines of a sole investment manager under contract with the board to act as a fiduciary in compliance with the duties and other requirements of Section 1 of this Act.*
- (b) *The board shall not adopt the recommendations of a proxy adviser or proxy voting service and shall not allow such proxy adviser or proxy voting service to vote on its behalf, unless the proxy adviser or proxy voting service acknowledges in writing and accepts under contract its duties under Section 1 of this Act and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section and Section 1 of this Act.*
- (c) *All shares held by or on behalf of the system, and which the system is entitled to vote under state, federal, or common laws, shall be voted according to the proxy voting guidelines adopted by the board and subject to the fiduciary duties and other requirements of this section by:*
1. *The board or investment committee of the board who are fiduciaries having the authority to make investments under Section 1 of this Act; or*
 2. *A proxy adviser, proxy voting service, or sole investment manager that acknowledges in writing and accepts under contract its duties under Section 1 of this Act and commits to follow the proxy voting guidelines adopted by the board when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.*
- (d) *All proxy votes shall be reported at least quarterly to the board. For each vote, the report shall provide:*
1. *The vote caption;*
 2. *The date of the vote;*
 3. *The company's name;*
 4. *The vote cast for the system;*
 5. *The recommendation of the company's management; and*
 6. *If applicable, the recommendation of the proxy adviser or proxy voting service.*

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

- (1) The Kentucky Employees Retirement System and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:
- (a) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;
 - (b) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System;
 - (c) Six (6) trustees, appointed by the Governor of the Commonwealth, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. Of the six (6) trustees appointed by the Governor, three (3) trustees shall have investment experience and three (3) trustees shall have retirement experience;
 - (d) For purposes of paragraph (c) of this subsection, a trustee with "investment experience" means an individual who does not have a conflict of interest, as provided by KRS 61.655, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:
 1. A portfolio manager acting in a fiduciary capacity;
 2. A professional securities analyst or investment consultant;
 3. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;
 4. A chartered financial analyst in good standing as determined by the CFA Institute; or

5. A university professor, teaching investment-related studies; and
 - (e) For purposes of paragraph (c) of this subsection, a trustee with "retirement experience" means an individual who does not have a conflict of interest, as provided by KRS 61.655, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:
 1. Experience in retirement or pension plan management;
 2. A certified public accountant with relevant experience in retirement or pension plan accounting;
 3. An actuary with relevant experience in retirement or pension plan consulting;
 4. An attorney licensed to practice law in the Commonwealth of Kentucky with relevant experience in retirement or pension plans; or
 5. A current or former university professor whose primary area of emphasis is economics or finance.
- (2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:
- (a) To sue and be sued in its corporate name;
 - (b) To make bylaws not inconsistent with the law;
 - (c) To conduct the business and promote the purposes for which it was formed;
 - (d) Except as provided in KRS 61.650(6), to contract for investment counseling, auditing, medical, and other professional or technical services as required to carry out the obligations of the board subject to KRS Chapters 45, 45A, 56, and 57. Actuarial consulting services shall be provided by a firm hired by the Kentucky Public Pensions Authority;
 - (e) To purchase fiduciary liability insurance;
 - (f) Except as provided in KRS 61.650(6), to acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties subject to KRS Chapters 45, 45A, and 56; and
 - (g) The board shall reimburse any trustee, officer, or employee for any legal expense resulting from a civil action arising out of the performance of his or her official duties. The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.
- (3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his or her successor is duly qualified except as otherwise provided in this section. An elected trustee or a trustee appointed by the Governor under subsection (1)(c) of this section, shall not serve more than three (3) consecutive four (4) year terms. An elected trustee or a trustee appointed by the Governor under subsection (1)(c) of this section, who has served three (3) consecutive terms may be elected or appointed again after an absence of four (4) years from the board.
- (b) The term limits established by paragraph (a) of this subsection shall apply to trustees serving on or after July 1, 2012, and all terms of office served prior to July 1, 2012, shall be used to determine if the trustee has exceeded the term limits provided by paragraph (a) of this subsection.
- (4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals.
- (b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the executive director, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, last four (4) digits of the Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members.
 - (c) Within four (4) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the executive director shall cause to be prepared an official ballot. The ballot shall include

the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes.

- (d) Except as provided by paragraph (j) of this subsection, the ballots shall be distributed to the eligible voters by mail to their last known residence address on file with the Kentucky Public Pensions Authority. Ballots shall not be distributed by mail to member addresses reported as invalid to the Kentucky Public Pensions Authority.
 - (e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office or submitted electronically as provided by paragraph (j) of this subsection. Access to this post office box shall be limited to the board's contracted firm. The individual receiving a plurality of votes shall be declared elected.
 - (f) The eligible voter shall cast his or her ballot by selecting the candidate of his or her choice. He or she shall sign and mail the ballot or submit the electronic ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date, or date of submission in the case of electronic ballots, shall be provided on the ballot.
 - (g) The board's contracted firm shall report in writing the outcome to the chair of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.
 - (h) For purposes of this subsection, an eligible voter shall be a person who was a member of the retirement system on December 31 of the year preceding the election year.
 - (i) Each individual who submits a request to be nominated by the board under paragraph (a) of this subsection and each individual who is nominated by the membership under paragraph (b) of this subsection shall:
 1. Complete an application developed by the retirement systems which shall include but not be limited to a disclosure of any prior felonies and any conflicts of interest that would hinder the individual's ability to serve on the board;
 2. Submit a resume detailing the individual's education and employment history and a cover letter detailing the member's qualifications for serving as trustee to the board; and
 3. Authorize the systems to have a criminal background check performed. The criminal background check shall be performed by the Department of Kentucky State Police.
 - (j) In lieu of the ballots mailed to members and retired members as provided by this subsection, the systems may by promulgation of administrative regulation pursuant to KRS Chapter 13A conduct trustee elections using electronic ballots, except that the systems shall mail a paper ballot upon request of any eligible voter.
- (5) (a) Any vacancy which may occur in an appointed position during a term of office shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position during a term of office shall be filled by appointment by a majority vote of the remaining elected trustees with a person selected from the system in which the vacancy occurs; however, any vacancy shall be filled only for the duration of the unexpired term. In the event of a vacancy of an elected trustee during a term of office, Kentucky Retirement Systems shall notify members of the system in which the vacancy occurs of the vacancy and the opportunity to be considered for the vacant position. Any vacancy during a term of office shall be filled within ninety (90) days of the position becoming vacant.
 - (b) Any appointments or reappointments to an appointed position on the board shall be made no later than thirty (30) days prior to an appointed member's term of office ending.
- (6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he or she shall resign a position.
 - (b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

- (c) A current or former employee of Kentucky Retirement Systems, County Employees Retirement System, or the Kentucky Public Pensions Authority shall not be eligible to serve as a member of the board.
- (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.
- (8)
 - (a) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chair or the chief executive officer.
 - (b) The board shall elect a chair and a vice chair. The chair shall not serve more than four (4) consecutive years as chair or vice-chair of the board. The vice-chair shall not serve more than four (4) consecutive years as chair or vice-chair of the board. A trustee who has served four (4) consecutive years as chair or vice-chair of the board may be elected chair or vice-chair of the board after an absence of two (2) years from the positions.
 - (c) A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.
- (9)
 - (a) The board of trustees shall appoint or contract for the services of a chief executive officer and general counsel and fix the compensation and other terms of employment for these positions without limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer shall serve as the legislative and executive adviser to the board. The general counsel shall serve as legal adviser to the board. The chief executive officer and general counsel shall work with the executive director of the Kentucky Public Pensions Authority to carry out the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705. The executive director of the Kentucky Public Pensions Authority shall be the chief administrative officer of the board.
 - (b) Prior to April 1, 2021, the board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. Effective April 1, 2021, the responsibility of appointing employees and managing personnel needs shall be transferred to the Kentucky Public Pensions Authority established by KRS 61.505.
 - (c) The board shall require the chief executive officer and may require the general counsel to execute bonds for the faithful performance of his or her duties notwithstanding the limitations of KRS Chapter 62.
 - (d) The board shall have a system of accounting established by the Kentucky Public Pensions Authority.
 - (e) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705, necessary or proper in order to carry out the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 16.505 to 16.652 and 61.510 to 61.705 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance. Provisions of KRS 16.505 to 16.652 and 61.510 to 61.705 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance shall not be available. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a), including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9).
 - (f) Notwithstanding any other provision of statute to the contrary, including but not limited to any provision of KRS Chapter 12, the Governor shall have no authority to change any provision of KRS 16.505 to 16.652 and 61.510 to 61.705 by executive order or action, including but not limited to reorganizing, replacing, amending, or abolishing the membership of the Kentucky Retirement Systems board of trustees.
- (10) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.
- (11) The Attorney General, or an assistant designated by him or her, may attend each meeting of the board and may receive the agenda, board minutes, and other information distributed to trustees of the board upon request. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

- (12) (a) The Kentucky Public Pensions Authority shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities for the systems. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. Except as provided by paragraph (b) of this subsection, the board may select the independent certified public accountant hired by the Kentucky Public Pensions Authority or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his or her discretion. All proceedings and records of the board shall be open for inspection by the public. The Kentucky Public Pensions Authority shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the offices of the Kentucky Public Pensions Authority and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.
- (b) At least once every five (5) years, the Auditor of Public Accounts shall perform the audit described by this subsection, and the system shall reimburse the Auditor of Public Accounts for all costs of the audit. The Auditor of Public Accounts shall determine which fiscal year during the five (5) year period the audit prescribed by this paragraph will be completed.
- (13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account, including any administrative expenses for the Kentucky Public Pensions Authority that are assigned to the Kentucky Retirement Systems by KRS 61.505. The board shall submit any administrative expenses that are specific to the Kentucky Retirement Systems that are not otherwise covered by KRS 61.505(11)(a).
- (14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.505 to 16.652 and 61.510 to 61.705, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.
- (15) (a) A trustee shall discharge his or her duties as a trustee, including his or her duties as a member of a committee:
1. In good faith;
 2. On an informed basis; and
 3. In a manner he or she honestly believes to be in the best interest of the Kentucky Retirement Systems.
- (b) A trustee discharges his or her duties on an informed basis if, when he or she makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he or she exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.
- (c) In discharging his or her duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
 2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
 3. A committee of the board of trustees of which he or she is not a member if the trustee honestly believes the committee merits confidence.
- (d) A trustee shall not be considered as acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.
- (e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:
1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and

2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.
 - (f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraph (e)1. and 2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.
 - (g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.
 - (h) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky and shall take all actions available under the law to contain costs for the trusts, including costs for participating employers, members, and retirees.
- (16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, or when an employer disagrees with an order of the system as provided by KRS 61.598, the affected member, retired member, recipient, or employer may request a hearing to be held in accordance with KRS Chapter 13B. The board may establish an appeals committee whose members shall be appointed by the chair and who shall have authority to act upon the recommendations and reports of the hearing officer on behalf of the board. The member, retired member, recipient, or employer aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B. The board may establish a joint administrative appeals committee with the County Employees Retirement System and may also establish a joint disability appeals committee with the County Employees Retirement System.
- (17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.
- (18) The board shall establish a formal trustee education program for all trustees of the board. The program shall include but not be limited to the following:
- (a) A required orientation program for all new trustees elected or appointed to the board. The orientation program shall include training on:
 1. Benefits and benefits administration;
 2. Investment concepts, policies, and current composition and administration of retirement systems investments;
 3. Laws, bylaws, and administrative regulations pertaining to the retirement systems and to fiduciaries; and
 4. Actuarial and financial concepts pertaining to the retirement systems.

If a trustee fails to complete the orientation program within one (1) year from the beginning of his or her first term on the board, the retirement systems shall withhold payment of the per diem and travel expenses due to the board member under this section and KRS 16.640 until the trustee has completed the orientation program;
 - (b) Annual required training for board members on the administration, benefits, financing, and investing of the retirement systems. If a trustee fails to complete the annual required training during the calendar or fiscal year, the retirement systems shall withhold payment of the per diem and travel expenses due to the board member under this section and KRS 16.640 until the board member has met the annual training requirements; and
 - (c) The retirement systems shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the trustee education program.
- (19) In order to improve public transparency regarding the administration of the systems, the board of trustees shall adopt a best practices model by posting the following information to the Kentucky Public Pensions Authority's *website*~~[Web site]~~ and shall make available to the public:
- (a) Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the Kentucky Public Pensions Authority's *website*~~[Web site]~~ at least seventy-two (72) hours in advance of

the board or committee meetings, except in the case of special or emergency meetings as provided by KRS 61.823;

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

paragraph to the Kentucky Public Pensions Authority's ~~website~~^[Web site], the systems may provide the information through a ~~website~~^[Web site] established by the executive branch to inform the public about executive branch agency expenditures and public employee salaries and wages;

- (l) All contracts or offering documents for services, goods, or property purchased or utilized by the systems;~~and~~
- (m) Information regarding the systems' financial and actuarial condition that is easily understood by the members, retired members, and the public; *and*

(n) All proxy vote reports as provided by subsection (7) of Section 4 of this Act.

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

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

- (1) (a) The board shall be the trustee of funds created by KRS 16.510, 61.515, and 61.701 pertaining to the accounts for the Kentucky Employees Retirement System or State Police Retirement System, notwithstanding the provisions of any other statute to the contrary, and shall have exclusive power to invest and reinvest such assets in accordance with federal law.
- (b) 1. The board shall establish an investment committee whose membership shall be composed of the following:
 - a. The three (3) trustees of the Kentucky Retirement Systems board appointed by the Governor pursuant to KRS 61.645 who have investment experience; and
 - b. Additional trustees appointed by the board chair.
- 2. The investment committee shall have authority to implement the investment policies adopted by the board and act on behalf of the board on all investment-related matters and to acquire, sell, safeguard, monitor, and manage the assets and securities of the several funds.
- (c) 1. *For the purposes of this paragraph:*
 - a. *"Solely in the interest of the members and beneficiaries" shall be determined using only pecuniary factors and shall not include any purpose to further a nonpecuniary interest;*
 - b. *"Pecuniary factor" means a consideration having a direct and material connection to the financial risk or financial return of an investment;*
 - c. *A "material connection" is established if there is a substantial likelihood that a reasonable investor would consider it important in determining the financial risk or the financial return of an investment;*
 - d. *"Nonpecuniary interest" includes but is not limited to an environmental, social, political, or ideological interest which does not have a direct and material connection to the financial risk or financial return of an investment; and*
 - e. *"Investment manager" shall have the same definition attributed to "investment adviser" under the federal Investment Advisers Act of 1940, 15 U.S.C. sec. 80b-2.*

2. A trustee, officer, employee, employee of the Kentucky Public Pensions Authority, *investment manager*, or other fiduciary, *or proxy adviser* shall discharge duties with respect to the retirement system:
 - ~~a[1].~~ Solely in the interest of the members and beneficiaries;
 - ~~b[2].~~ For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;
 - ~~c[3].~~ With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
 - ~~d[4].~~ Impartially, taking into account any differing interests of members and beneficiaries;
 - ~~e[5].~~ Incurring any costs that are appropriate and reasonable; and
 - ~~f[6].~~ In accordance with a good-faith interpretation of the *federal, state, and common* law governing the ~~[retirement]~~ system *and fiduciaries*.
 3. *Evidence that a fiduciary has considered or acted on a nonpecuniary interest shall include but is not limited to:*
 - a. Statements, explanations, reports, or correspondence;*
 - b. Communications with portfolio companies;*
 - c. Statements of principles or policies, whether made individually or jointly;*
 - d. Votes of shares or proxies; or*
 - e. Coalitions, initiatives, agreements, or commitments to which the fiduciary is a participant, affiliate, or signatory.*
- (d) In addition to the standards of conduct prescribed by paragraph (c) of this subsection:
1. All internal investment staff of the Kentucky Public Pensions Authority, and investment consultants shall adhere to the Code of Ethics and Standards of Professional Conduct, and all board trustees shall adhere to the Code of Conduct for Members of a Pension Scheme Governing Body. All codes cited in this subparagraph are promulgated by the CFA Institute; ~~and~~
 2. Investment managers shall comply with all applicable provisions of the federal Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other applicable federal securities statutes and related rules and regulations that apply to investment managers; *and*
 3. *Proxy advisers and proxy voting services shall comply with all applicable provisions of the Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other federal statutes and related rules and regulations that apply to proxy advisers and proxy voting services.*
- (e) *No contract or agreement, whether made in writing or not, shall in any manner waive, restrict, or limit a fiduciary's liability as to any of the duties imposed by this section. Any agreement shall specify that it is made in the Commonwealth and governed by the laws of the Commonwealth.*
- (2) The board, through adopted written policies, shall maintain ownership and control over its assets held in its unitized managed custodial account.
 - (3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.
 - (4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.

- (5) Based upon market value at the time of purchase, the board shall limit the amount of assets managed by any one (1) active or passive investment manager to fifteen percent (15%) of the assets in the pension and insurance funds.
- (6) All contracts for the investment or management of assets of the systems shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the systems shall comply:
- (a) On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;
 - (b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;
 - (c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;
 - (d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;
 - (e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and
 - (f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.
- (7) *(a) The board shall adopt written proxy voting guidelines which are consistent with the fiduciary duties and other requirements of this section.*
- (b) The board shall not adopt the recommendations of a proxy adviser or proxy voting service and shall not allow such proxy adviser or proxy voting service to vote on behalf of the system, unless the proxy adviser or proxy voting service acknowledges in writing and accepts under contract its duties under this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.*
- (c) All shares held by or on behalf of the system, and which the system is entitled to vote under state, federal, or common laws, shall be voted according to the proxy voting guidelines adopted by the board and subject to the fiduciary duties and other requirements of this section by:*
- 1. The board, the investment committee of the board, or an employee or employees of the Authority who are fiduciaries under subsection (1) of this section and are appointed or otherwise authorized by the board; or*
 - 2. A proxy adviser or proxy voting service that acknowledges in writing and accepts under contract its duties under this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.*
- (d) All proxy votes shall be reported at least quarterly to the board. For each vote, the report shall provide:*
- 1. The vote caption;*
 - 2. The date of the vote;*
 - 3. The company's name;*
 - 4. The vote cast for the system;*
 - 5. The recommendation of the company's management; and*
 - 6. If applicable, the recommendation of the proxy adviser or proxy voting service.*

➔Section 5. KRS 78.782 is amended to read as follows:

- (1) The County Employees Retirement System shall be administered by the board of trustees composed of nine (9) members, who shall be selected as follows:
- (a) Three (3) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System, of which:
1. Two (2) shall have a majority of his or her service credit earned in the County Employees Retirement System in a nonhazardous position; and
 2. One (1) shall have a majority of his or her service credit earned in the County Employees Retirement System in a hazardous position;
- (b) Six (6) trustees appointed by the Governor, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. Of the six (6) trustees appointed by the Governor:
1. One (1) trustee with retirement experience shall be appointed from a list of three (3) applicants submitted by the Kentucky League of Cities;
 2. One (1) trustee with investment experience shall be appointed from a list of three (3) applicants submitted by the Kentucky League of Cities;
 3. One (1) trustee with retirement experience shall be appointed from a list of three (3) applicants submitted by the Kentucky Association of Counties;
 4. One (1) trustee with investment experience shall be appointed from a list of three (3) applicants submitted by the Kentucky Association of Counties;
 5. One (1) trustee with retirement experience shall be appointed from a list of three (3) applicants submitted by the Kentucky School Boards Association; and
 6. One (1) trustee with investment experience shall be appointed from a list of three (3) applicants submitted by the Kentucky School Boards Association.

Notwithstanding the provisions of KRS 12.070(3), the Governor shall appoint each individual trustee described by subparagraphs 1. to 6. of this paragraph solely from each corresponding individual list required to be submitted by the Kentucky League of Cities, the Kentucky Association of Counties, or the Kentucky School Boards Association as provided by subparagraphs 1. to 6. of this paragraph, and the Governor shall not be able to reject the list of applicants submitted, request that another list be provided, or use a list different from the one (1) individual list required to be submitted for each specific appointment or reappointment;

- (c) For purposes of paragraph (b) of this subsection, a trustee with "investment experience" means an individual who does not have a conflict of interest, as provided by KRS 61.655, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:
1. A portfolio manager acting in a fiduciary capacity;
 2. A professional securities analyst or investment consultant;
 3. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;
 4. A chartered financial analyst in good standing as determined by the CFA Institute; or
 5. A university professor, teaching investment-related studies; and
- (d) For purposes of paragraph (b) of this subsection, a trustee with "retirement experience" means an individual who does not have a conflict of interest, as provided by KRS 61.655, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:
1. Experience in retirement or pension plan management;
 2. A certified public accountant with relevant experience in retirement or pension plan accounting;
 3. An actuary with relevant experience in retirement or pension plan consulting;
 4. An attorney licensed to practice law in the Commonwealth of Kentucky with relevant experience in retirement or pension plans; or

5. A current or former university professor whose primary area of emphasis is economics or finance.
- (2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:
 - (a) To sue and be sued in its corporate name;
 - (b) To make bylaws not inconsistent with the law;
 - (c) To conduct the business and promote the purposes for which it was formed;
 - (d) Except as provided in KRS 78.790(6), to contract for investment counseling, auditing, medical, and other professional or technical services as required to carry out the obligations of the board subject to the provisions of KRS Chapters 45, 45A, 56, and 57. Actuarial consulting services shall be provided by a firm hired by the Kentucky Public Pensions Authority;
 - (e) To purchase fiduciary liability insurance;
 - (f) Except as provided in KRS 78.790(6), to acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties subject to KRS Chapters 45, 45A, and 56; and
 - (g) The board shall reimburse any trustee, officer, or employee for any legal expense resulting from a civil action arising out of the performance of his or her official duties. The hourly rate of reimbursement for any contract for legal services under this paragraph shall not exceed the maximum hourly rate provided in the Legal Services Duties and Maximum Rate Schedule promulgated by the Government Contract Review Committee established pursuant to KRS 45A.705, unless a higher rate is specifically approved by the secretary of the Finance and Administration Cabinet or his or her designee.
 - (3) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his or her successor is duly qualified except as otherwise provided in this section. An elected or appointed trustee shall not serve more than three (3) consecutive four (4) year terms. An elected or appointed trustee who has served three (3) consecutive terms may be elected or appointed again after an absence of four (4) years from the board.
 - (4)
 - (a) The trustees selected by the membership of the system shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals.
 - (b) Individuals may be nominated by the system members by presenting to the executive director, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, last four (4) digits of the Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the system members.
 - (c) Within four (4) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the executive director shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provision shall also be made for write-in votes.
 - (d) Except as provided by paragraph (j) of this subsection, the ballots shall be distributed to the eligible voters by mail to their last known residence address on file with the Kentucky Public Pensions Authority. Ballots shall not be distributed by mail to member addresses reported as invalid to the Kentucky Public Pensions Authority.
 - (e) The ballots shall be addressed to the County Employees Retirement System in care of a predetermined box number at a United States Post Office or submitted electronically as provided by paragraph (j) of this subsection. Access to this post office box shall be limited to the board's contracted firm. The individual receiving a plurality of votes shall be declared elected.
 - (f) The eligible voter shall cast his or her ballot by selecting the candidate of his or her choice. He or she shall sign and mail the ballot or submit the electronic ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date, or date of submission in the case of electronic ballots, shall be provided on the ballot.
 - (g) The board's contracted firm shall report in writing the outcome to the chair of the board of trustees. Costs of an election shall be payable from the funds of the system.

- (h) For purposes of this subsection, an eligible voter shall be a person who was a member of the system on December 31 of the year preceding the election year.
- (i) Each individual who submits a request to be nominated by the board under paragraph (a) of this subsection and each individual who is nominated by the membership under paragraph (b) of this subsection shall:
 - 1. Complete an application developed by the system which shall include but not be limited to a disclosure of any prior felonies and any conflicts of interest that would hinder the individual's ability to serve on the board;
 - 2. Submit a resume detailing the individual's education and employment history and a cover letter detailing the member's qualifications for serving as trustee to the board; and
 - 3. Authorize the system to have a criminal background check performed. The criminal background check shall be performed by the Department of Kentucky State Police.
- (j) In lieu of the ballots mailed to members and retired members as provided by this subsection, the systems may by promulgation of administrative regulation pursuant to KRS Chapter 13A conduct trustee elections using electronic ballots, except that the systems shall mail a paper ballot upon request of any eligible voter.
- (5) (a) Any vacancy which may occur in an appointed position during a term of office shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position during a term of office shall be filled by appointment by a majority vote of the remaining elected trustees; however, any vacancy shall be filled only for the duration of the unexpired term. In the event of a vacancy of an elected trustee during a term of office, the system shall notify members of the vacancy and the opportunity to be considered for the vacant position. Any vacancy shall be filled within ninety (90) days of the position becoming vacant.
- (b) Any appointments or reappointments to an appointed position on the board shall be made at least thirty (30) days prior to an appointed member's term of office ending. The Governor's Office shall, with each appointment or reappointment, request lists to be submitted and base selections on those lists solely under the procedures and requirements provided by subsection (1)(b) of this section.
- (6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board and, if a trustee holds more than one (1) position as trustee on the board, he or she shall resign a position.
- (b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.
- (c) A current or former employee of the County Employees Retirement System, Kentucky Retirement Systems, or the Kentucky Public Pensions Authority shall not be eligible to serve as a member of the board.
- (7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars (\$80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.
- (8) (a) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chair or the chief executive officer.
- (b) The board shall elect a chair and a vice chair. The chair shall not serve more than four (4) consecutive years as chair or vice chair of the board. The vice chair shall not serve more than four (4) consecutive years as chair or vice chair of the board. A trustee who has served four (4) consecutive years as chair or vice chair of the board may be elected chair or vice chair of the board after an absence of two (2) years from the positions.
- (c) A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.
- (9) (a) The board of trustees shall appoint or contract for the services of a chief executive officer and general counsel and fix the compensation and other terms of employment for these positions without limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The chief executive officer shall

serve as the legislative and executive adviser to the board. The general counsel shall serve as legal adviser to the board. The chief executive officer and general counsel shall work with the executive director of the Kentucky Public Pensions Authority to carry out the provisions of KRS 78.510 to 78.852. The executive director of the Kentucky Public Pensions Authority shall be the chief administrative officer of the board.

- (b) The board shall require the chief executive officer and may require the general counsel to execute bonds for the faithful performance of his or her duties notwithstanding the limitations of KRS Chapter 62.
 - (c) The board shall have a system of accounting established by the Kentucky Public Pensions Authority.
 - (d) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 78.510 to 78.852, necessary or proper in order to carry out the provisions of KRS 78.510 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 78.510 to 78.852 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance. Provisions of KRS 78.510 to 78.852 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance shall not be available. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a), including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9).
 - (e) Notwithstanding any other provision of statute to the contrary, including but not limited to any provision of KRS Chapter 12, the Governor shall have no authority to change any provision of KRS 78.510 to 78.852 by executive order or action, including but not limited to reorganizing, replacing, amending, or abolishing the membership of the County Employees Retirement System board of trustees.
- (10) The chief executive officer and general counsel of the board shall serve during its will and pleasure. Notwithstanding any statute to the contrary, the chief executive officer shall not be considered a legislative agent under KRS 6.611.
- (11) The Attorney General, or an assistant designated by him or her, may attend each meeting of the board and may receive the agenda, board minutes, and other information distributed to trustees of the board upon request. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.
- (12) (a) The Kentucky Public Pensions Authority shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities for the systems. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. Except as provided by paragraph (b) of this subsection, the board may select the independent certified public accountant hired by the Kentucky Public Pensions Authority or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his or her discretion. All proceedings and records of the board shall be open for inspection by the public. The Kentucky Public Pensions Authority shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the offices of the County Employees Retirement System and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent electronically to the Legislative Research Commission no later than ten (10) days after receipt by the board.
- (b) At least once every five (5) years, the Auditor of Public Accounts shall perform the audit described by this subsection, and the system shall reimburse the Auditor of Public Accounts for all costs of the audit. The Auditor of Public Accounts shall determine which fiscal year during the five (5) year period the audit prescribed by this paragraph will be completed.
- (13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account, including any administrative expenses for the Kentucky Public Pensions Authority that are assigned to the County Employees Retirement System by KRS 61.505. The board shall submit any administrative expenses that are specific to the County Employees Retirement System that are not otherwise covered by KRS 61.505(11)(a).

- (14) Except as provided under subsection (16) of this section or KRS 61.665, any person adversely affected by a decision of the board involving KRS 78.510 to 78.852 may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.
- (15) (a) A trustee shall discharge his or her duties as a trustee, including his or her duties as a member of a committee:
1. In good faith;
 2. On an informed basis; and
 3. In a manner he or she honestly believes to be in the best interest of the County Employees Retirement System.
- (b) A trustee discharges his or her duties on an informed basis if, when he or she makes an inquiry into the business and affairs of the system or into a particular action to be taken or decision to be made, he or she exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.
- (c) In discharging his or her duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
1. One (1) or more officers or employees of the system or Authority whom the trustee honestly believes to be reliable and competent in the matters presented;
 2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
 3. A committee of the board of trustees of which he or she is not a member if the trustee honestly believes the committee merits confidence.
- (d) A trustee shall not be considered as acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.
- (e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:
1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
 2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.
- (f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraph (e)1. and 2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the system.
- (g) In discharging his or her administrative duties under this section, a trustee shall strive to administer the system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky and shall take all actions available under the law to contain costs for the trusts, including costs for participating employers, members, and retirees.
- (16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, or when an employer disagrees with an order of the system as provided by KRS 61.598, the affected member, retired member, recipient, or employer may request a hearing to be held in accordance with KRS Chapter 13B. The board may establish an appeals committee whose members shall be appointed by the chair and who shall have authority to act upon the recommendations and reports of the hearing officer on behalf of the board. The member, retired member, recipient, or employer aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B. The board may establish a joint administrative appeals committee with the Kentucky Retirement Systems and may also establish a joint disability appeals committee with the Kentucky Retirement Systems.
- (17) The board shall establish a formal trustee education program for all trustees of the board. The program shall include but not be limited to the following:

- (a) A required orientation program for all new trustees elected or appointed to the board. The orientation program shall include training on:
 1. Benefits and benefits administration;
 2. Investment concepts, policies, and current composition and administration of system investments;
 3. Laws, bylaws, and administrative regulations pertaining to the system and to fiduciaries; and
 4. Actuarial and financial concepts pertaining to the system.

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

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

- (h) A listing of the members of the board of trustees and membership on each committee established by the board, including any investment committees;
- (i) All investment holdings in aggregate, fees, and commissions for each fund administered by the board, which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2021. The system shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:
 1. Disclose the dollar value of fees and commissions paid to each individual manager or partnership;
 2. Disclose the dollar value of any profit sharing, carried interest, or any other partnership incentive arrangements, partnership agreements, or any other partnership expenses received by or paid to each manager or partnership; and
 3. As applicable, report each fee or commission by manager or partnership consistent with standards established by the Institutional Limited Partners Association (ILPA).

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

- (j) An update of net of fees investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund, for each asset class administered by the board, and for each manager. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2021;
 - (k) A searchable database of the system's expenditures and a listing of each individual employed by the system along with the employee's salary or wages. In lieu of posting the information required by this paragraph to the Kentucky Public Pensions Authority's ~~website~~^[Web site], the system may provide the information through a ~~website~~^[Web site] established by the executive branch to inform the public about public employee salaries and wages;
 - (l) All contracts or offering documents for services, goods, or property purchased or utilized by the system for contracts or offering documents entered into on or after July 1, 2021;~~and~~
 - (m) Information regarding the system's financial and actuarial condition that is easily understood by the members, retired members, and the public; *and*
 - (n) *All proxy vote reports as provided by subsection (7) of Section 6 of this Act.*
- (19) Notwithstanding the requirements of subsection (18) of this section, the system shall not be required to furnish information that is protected under KRS 61.661, exempt under KRS 61.878, or that, if disclosed, would compromise the system's ability to competitively invest in real estate or other asset classes, except that no provision of this section or KRS 61.878 shall exclude disclosure and review of all contracts, including investment contracts, by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705 or the disclosure of investment fees and commissions as provided by this section. If any public record contains material which is not excepted under this section, the system shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination.
- (20) Notwithstanding any other provision of KRS 78.510 to 78.852 to the contrary, no funds of the County Employees Retirement System, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to placement agents. For purposes of this subsection, "placement agent" means a third-party individual, who is not an employee, or firm, wholly or partially owned by the entity being hired, who solicits investments on behalf of an investment manager, private fund, or company issuing securities.

➔Section 6. KRS 78.790 is amended to read as follows:

- (1) (a) The board shall be the trustee of funds pertaining to the County Employees Retirement System created by KRS 78.510 to 78.852, and KRS 61.701, and shall have full and exclusive power to invest and reinvest such assets in accordance with federal law.
- (b) 1. The board shall establish an investment committee that shall include members of the board with investment experience, elected members, or other members as determined by the board chair, and may also include nonvoting members who have investment expertise.

2. The investment committee shall have authority to implement the investment policies adopted by the board and act on behalf of the board on all investment-related matters.
- (c) 1. ***For the purposes of this paragraph:***
- a. ***"Solely in the interest of the members and beneficiaries" shall be determined using only pecuniary factors and shall not include any purpose to further a nonpecuniary interest;***
 - b. ***"Pecuniary factor" means a consideration having a direct and material connection to the financial risk or financial return of an investment;***
 - c. ***A "material connection" is established if there is a substantial likelihood that a reasonable investor would consider it important in determining the financial risk or the financial return of an investment;***
 - d. ***"Nonpecuniary interest" includes but is not limited to an environmental, social, political, or ideological interest which does not have a direct and material connection to the financial risk or financial return of an investment; and***
 - e. ***"Investment manager" shall have the same definition attributed to "investment adviser" under the federal Investment Advisers Act of 1940, 15 U.S.C. sec. 80b-2.***
2. A trustee, officer, employee, employee of the Kentucky Public Pensions Authority, ***investment manager***, or other fiduciary, ***or proxy adviser*** shall discharge duties with respect to the system:
 - a~~[1]~~. Solely in the interest of the members and beneficiaries;
 - b~~[2]~~. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;
 - c~~[3]~~. With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
 - d~~[4]~~. Impartially, taking into account any differing interests of members and beneficiaries;
 - e~~[5]~~. Incurring any costs that are appropriate and reasonable; and
 - f~~[6]~~. In accordance with a good-faith interpretation of the ***federal, state, and common*** law governing the system ***and fiduciaries***.
 3. ***Evidence that a fiduciary has considered or acted on a nonpecuniary interest shall include but is not limited to:***
 - a. ***Statements, explanations, reports, or correspondence;***
 - b. ***Communications with portfolio companies;***
 - c. ***Statements of principles or policies, whether made individually or jointly;***
 - d. ***Votes of shares or proxies; or***
 - e. ***Coalitions, initiatives, agreements, or commitments to which the fiduciary is a participant, affiliate, or signatory.***
- (d) In addition to the standards of conduct prescribed by paragraph (c) of this subsection:
1. All internal investment staff of the Kentucky Public Pensions Authority, and investment consultants shall adhere to the Code of Ethics and Standards of Professional Conduct, and all board trustees shall adhere to the Code of Conduct for Members of a Pension Scheme Governing Body. All codes cited in this subparagraph are promulgated by the CFA Institute; ~~and~~
 2. Investment managers shall comply with all applicable provisions of the federal Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other applicable federal securities statutes and related rules and regulations that apply to investment managers; ***and***
 3. ***Proxy advisers and proxy voting services shall comply with all applicable provisions of the Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated***

thereunder, and shall comply with all other federal statutes and related rules and regulations that apply to proxy advisers and proxy voting services.

- (e) *No contract or agreement, whether made in writing or not, shall in any manner waive, restrict, or limit a fiduciary's liability as to any of the duties imposed by this section. Any agreement shall specify that it is made in the Commonwealth and governed by the laws of the Commonwealth.*
- (2) The board, through adopted written policies, shall maintain ownership and control over its assets held in its unitized managed custodial account.
- (3) The board, in keeping with its responsibility as the trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.
- (4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.
- (5) Based upon market value at the time of purchase, the board shall limit the amount of assets managed by any one (1) active or passive investment manager to fifteen percent (15%) of the assets in the pension and insurance funds.
- (6) All contracts for the investment or management of assets of the system shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the system shall comply:
- (a) The board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;
 - (b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;
 - (c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;
 - (d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;
 - (e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and
 - (f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.
- (7) (a) *The board shall adopt written proxy voting guidelines, which are consistent with the fiduciary duties and other requirements of this section.*
- (b) *The board shall not adopt the recommendations of a proxy adviser or proxy voting service and shall not allow such proxy adviser or proxy voting service to vote on behalf of the system, unless the proxy adviser or proxy voting service acknowledges in writing and accepts under contract its duties under this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.*
- (c) *All shares held by or on behalf of the system, and which the system is entitled to vote under state, federal, or common laws, shall be voted according to the proxy voting guidelines adopted by the board and subject to the fiduciary duties and other requirements of this section by:*
1. *The board, the investment committee of the board, or an employee or employees of the Authority who are fiduciaries under subsection (1) of this section and are appointed or otherwise authorized by the board; or*

2. *A proxy adviser or proxy voting service that acknowledges in writing and accepts under contract its duties under this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.*
- (d) *All proxy votes shall be reported at least quarterly to the board. For each vote, the report shall provide:*
1. *The vote caption;*
 2. *The date of the vote;*
 3. *The company's name;*
 4. *The vote cast for the system;*
 5. *The recommendation of the company's management; and*
 6. *If applicable, the recommendation of the proxy adviser or proxy voting service.*

➔ Section 7. KRS 161.250 is amended to read as follows:

- (1) (a) The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective provisions of KRS 161.155 and 161.220 to 161.714 are vested in a board of trustees to be known as the "Board of Trustees of the Teachers' Retirement System of the State of Kentucky."
- (b) The board of trustees shall consist of the following:
 1. The chief state school officer;
 2. The State Treasurer;
 3. Two (2) trustees, appointed by the Governor of the Commonwealth, subject to Senate confirmation in accordance with KRS 11.160 for each appointment or reappointment. These two (2) trustees shall have investment experience. For purposes of this subparagraph, a trustee with "investment experience" means an individual who does not have a conflict of interest, as provided by KRS 161.460, and who has at least ten (10) years of experience in one (1) of the following areas of expertise:
 - a. A portfolio manager acting in a fiduciary capacity;
 - b. A professional securities analyst or investment consultant;
 - c. A current or retired employee or principal of a trust institution, investment or finance organization, or endowment fund acting in an investment-related capacity;
 - d. A chartered financial analyst in good standing as determined by the CFA Institute; or
 - e. A university professor, teaching investment-related studies; and
 4. Seven (7) other trustees elected as provided in KRS 161.260. Four (4) of the elective trustees shall be members of the retirement system, to be known as teacher trustees, two (2) shall be persons who are not members of the teaching profession, to be known as the lay trustees, and one (1) shall be an annuitant of the retirement system to be known as the retired teacher trustee. One (1) teacher trustee shall be elected annually for a four-year term. The retired teacher trustee shall be elected every four (4) years. The chief state school officer and the State Treasurer are considered ex officio members of the board of trustees and may designate in writing a person to represent them at board meetings.
- (c) 1. Elective trustees shall not serve more than three (3) consecutive four (4) year terms. An elective trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board of trustees.
2. The term limits established by subparagraph 1. of this paragraph shall apply to elective trustees serving on or after July 1, 2012, and all terms of office served prior to July 1, 2012, shall be used to determine if the elective trustee has exceeded the term limits provided by subparagraph 1. of this paragraph.

- (d) 1. Each appointed trustee shall serve a term of four (4) years. An appointed trustee shall not serve more than three (3) consecutive four (4) year terms. An appointed trustee who has served three (3) consecutive terms may be appointed again after an absence of four (4) years from the board of trustees.
2. Any vacancy that occurs in an appointed position shall be filled in the same manner that provides for the selection of the trustee; however, any vacancy shall be filled only for the duration of the unexpired term.
- (2) A member, retired member, or designated beneficiary may appeal the retirement system's decisions that materially affect the amount of service retirement allowance, amount of service credit, eligibility for service retirement, or eligibility for survivorship benefits to which that member, retired member, or designated beneficiary claims to be entitled. All appeals must be in writing and filed with the retirement system within thirty (30) days of the claimant's first notice of the retirement system's decision. For purposes of this section, notice shall be complete and effective upon the date of mailing of the retirement system's decision to the claimant at the claimant's last known address. Failure by the claimant to file a written appeal with the retirement system within the thirty (30) day period shall result in the decision of the retirement system becoming permanent with the effect of a final and unappealable order. Appeals may include a request for an administrative hearing which shall be conducted in accordance with the provisions of KRS Chapter 13B. The board of trustees may establish an appeals committee whose members shall be appointed by the chairperson and who shall have the authority to act upon the report and recommendation of the hearing officer by issuing a final order on behalf of the full board of trustees. A member, retired member, or designated beneficiary who has filed a timely, written appeal of a decision of the retirement system may, following the administrative hearing and issuance of the final order by the board of trustees, appeal the final order of the board of trustees to the Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.
- (3) The board of trustees shall establish a formal trustee education program for all trustees of the board. The program shall include but not be limited to the following:
- (a) A required orientation program for all new trustees to the board. The orientation program shall include training on:
1. Benefits and benefits administration;
 2. Investment concepts, policies, and current composition and administration of retirement system investments;
 3. Laws, bylaws, and administrative regulations pertaining to the retirement system and to fiduciaries; and
 4. Actuarial and financial concepts pertaining to the retirement system.
- If a trustee fails to complete the orientation program within one (1) year from the beginning of his or her first term on the board, the retirement system shall withhold payment of the per diem and travel expenses due to the board member under KRS 161.290 until the trustee has completed the orientation program;
- (b) Annual required training for trustees on the administration, benefits, financing, and investing of the retirement system. If a trustee fails to complete the annual required training during the calendar or fiscal year, the retirement system shall withhold payment of the per diem and travel expenses due to the board member under KRS 161.290 until the board member has met the annual training requirements; and
- (c) The retirement system shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the trustee education program.
- (4) In order to improve public transparency regarding the administration of the system, the board of trustees shall adopt a best practices model by posting the following information to the retirement system's ~~website~~^[Web site] and shall make available to the public:
- (a) Meeting notices and agendas for all meetings of the board. Notices and agendas shall be posted to the retirement system's ~~website~~^[Web site] at least seventy-two (72) hours in advance of the board or committee meetings, except in the case of special or emergency meetings as provided by KRS 61.823;
- (b) The ~~[Comprehensive]~~ Annual **Comprehensive** Financial Report with the information as follows:
1. A general overview and update on the retirement system by the executive secretary;

2. A listing of the board of trustees;
 3. A listing of key staff;
 4. An organizational chart;
 5. Financial information, including a statement of plan net assets, a statement of changes in plan net assets, an actuarial value of assets, a schedule of investments, a statement of funded status and funding progress, and other supporting data;
 6. Investment information, including a general overview, a list of the retirement system's professional consultants, a total net return on retirement system investments over a historical period, an investment summary, contracted investment management expenses, transaction commissions, and a schedule of investments;
 7. The annual actuarial valuation report on the pension benefit and the medical insurance benefit; and
 8. A general statistical section, including information on contributions, benefit payouts, and retirement system demographic data;
- (c) All external audits;
- (d) All board minutes or other materials that require adoption or ratification by the board of trustees. The items listed in this paragraph shall be posted within seventy-two (72) hours of adoption or ratification of the board;
- (e) All bylaws, policies, or procedures adopted or ratified by the board of trustees;
- (f) The retirement system's summary plan description;
- (g) The retirement system's law book;
- (h) A listing of the members of the board of trustees and membership on each committee established by the board, including any investment committees;
- (i) All investment holdings in aggregate, fees, and commissions for each fund administered by the board, which shall be updated on a quarterly basis for fiscal years beginning on or after July 1, 2017. The system shall request from all managers, partnerships, and any other available sources all information regarding fees and commissions and shall, based on the requested information received:
1. Disclose the dollar value of fees or commissions paid to each individual manager or partnership;
 2. Disclose the dollar value of any profit sharing, carried interest, or any other partnership incentive arrangements, partnership agreements, or any other partnership expenses received by or paid to each manager or partnership; and
 3. As applicable, report each fee or commission by manager or partnership consistent with standards established by the Institutional Limited Partners Association (ILPA).
- In addition to the requirements of this paragraph, the system shall also disclose the name and address of all individual underlying managers or partners in any fund of funds in which system assets are invested;
- (j) An update of net of fees investment returns, asset allocations, and the performance of the funds against benchmarks adopted by the board for each fund, for each asset class administered by the board, and for each manager. The update shall be posted on a quarterly basis for fiscal years beginning on or after July 1, 2017;
- (k) All contracts or offering documents for services, goods, or property purchased or utilized by the system; ~~and~~
- (l) A searchable database of the system's expenditures and a listing of each individual employed by the system along with the employee's salary or wages. In lieu of posting the information required by this paragraph to the system's *website*~~[Web site]~~, the system may provide the information through a *website*~~[Web site]~~ established by the executive branch to inform the public about executive branch agency expenditures and public employee salaries and wages; *and*
- (m) *All proxy vote reports as provided by subsection (8) of Section 8 of this Act.*

- (5) Notwithstanding the requirements of subsection (4) of this section, the retirement system shall not be required to furnish information that is protected under KRS 161.585, exempt under KRS 61.878, or that, if disclosed, would compromise the retirement system's ability to competitively invest in real estate or other asset classes, except that no provision of this section or KRS 61.878 shall exclude disclosure and review of all contracts, including investment contracts, by the board, the Auditor of Public Accounts, and the Government Contract Review Committee established pursuant to KRS 45A.705 or the disclosure of investment fees and commissions as provided by this section. If any public record contains material which is not excepted under this section, the system shall separate the excepted material by removal, segregation, or redaction, and make the nonexcepted material available for examination.
- (6) For any benefit improvements the General Assembly has authorized the board of trustees to establish under KRS 161.220 to 161.716 and that require formal adoption by the board, the board shall establish the benefits by promulgation of administrative regulations in accordance with KRS Chapter 13A.

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

- (1) (a) The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer, or other disposition of the investments and moneys of the retirement system. The board shall, by administrative regulation, establish investment policies and procedures to carry out their responsibilities.
- (b) 1. The board shall contract with experienced competent investment managers to invest and manage assets of the system. The board may also employ qualified investment staff to advise it on investment matters and to invest and manage assets of the system not to exceed fifty percent (50%) of the system's assets. The board may contract with one (1) or more general investment consultants, as well as specialized investment consultants, to advise it on investment matters.
2. All internal investment staff and investment consultants shall adhere to the Code of Ethics and Standards of Professional Conduct, and all board trustees shall adhere to the Code of Conduct for Members of a Pension Scheme Governing Body, promulgated by the CFA Institute. Investment managers shall comply with the federal Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder and shall comply with all other applicable federal securities statutes and related rules and regulations that apply to investment managers.
3. No investment manager shall manage more than forty percent (40%) of the funds of the retirement system.
- (c) The board may appoint an investment committee to act for the board in all matters of investment, subject to the approval of the board of trustees. The board of trustees, in keeping with their responsibilities as trustees and wherever consistent with their fiduciary responsibilities, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth. Toward this end, the board shall develop procedures for informing the business community of the potential for in-state investments by the retirement fund, accepting and evaluating applications for the in-state investment of funds, and working with members of the business community in executing in-state investments which are consistent with the board's fiduciary responsibilities. The board shall include in the criteria it uses to evaluate in-state investments their potential for creating new employment opportunities and adding to the total job pool in Kentucky. The board may cooperate with the board of trustees of Kentucky Retirement Systems in developing its program and procedures, and shall report to the Legislative Research Commission annually on its progress in placing in-state investments. The first report shall be submitted by October 1, 1991, and subsequent reports shall be submitted by October 1 of each year thereafter. The report shall include the number of applications for in-state investment received, the nature of the investments proposed, the amount requested, the amount invested, and the percentage of applications which resulted in investments.
- (2) (a) ***For the purposes of this subsection:***
1. ***"Solely in the interest of the members and beneficiaries" shall be determined using only pecuniary factors and shall not include any purpose to further a nonpecuniary interest;***
2. ***"Pecuniary factor" means a consideration having a direct and material connection to the financial risk or financial return of an investment;***

3. *A "material connection" is established if there is a substantial likelihood that a reasonable investor would consider it important in determining the financial risk or the financial return of an investment;*
 4. *"Nonpecuniary interest" includes but is not limited to an environmental, social, political, or ideological interest which does not have a direct and material connection to the financial risk or financial return of an investment; and*
 5. *"Investment manager" and "investment consultant" shall have the same definition attributed to "investment adviser" under the federal Investment Advisers Act of 1940, 15 U.S.C. sec. 80b-2.*
- (b) The board members,~~and~~ investment *managers, investment consultants, or other fiduciaries, and proxy advisers* shall discharge their duties with respect to the assets of the system solely in the interests of the active contributing members and annuitants and:
- 1.~~(a)~~ For the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system;
 - 2.~~(b)~~ With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims;
 - 3.~~(c)~~ By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and
 - 4.~~(d)~~ In accordance with the *federal, state, and common* laws, administrative regulations, and other instruments governing the system *and fiduciaries*.
- (c) *Evidence that a fiduciary has considered or acted on a nonpecuniary interest shall include but is not limited to:*
1. *Statements, explanations, reports, or correspondence;*
 2. *Communications with portfolio companies;*
 3. *Statements of principles or policies, whether made individually or jointly;*
 4. *Votes of shares or proxies; or*
 5. *Coalitions, initiatives, agreements, or commitments to which the fiduciary is a participant, affiliate, or signatory.*
- (3) (a) In choosing and contracting for professional investment management and consulting services, the board shall do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment manager shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments. Expenses directly related to investment management and consulting services shall be financed from the guarantee fund in amounts approved by the board.
- (b) An investment manager or consultant appointed under this section shall acknowledge in writing his *or her* fiduciary responsibilities to the fund. To be eligible for appointment, an investment manager, consultant, or an affiliate, shall be:
1. Registered under the Federal Investment Advisers Act of 1940; or
 2. A bank as defined by that Act; or
 3. An insurance company qualified to perform investment services under the laws of more than one (1) state.
- (c) *Proxy advisers and proxy voting services shall comply with all applicable provisions of the Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other federal statutes and related rules and regulations that apply to proxy advisers and proxy voting services.*
- (d) *No contract or agreement, whether made in writing or not, shall in any manner waive, restrict, or limit a fiduciary's liability as to any of the duties imposed by this section. Any agreement shall specify that it is made in the Commonwealth and governed by the laws of the Commonwealth.*

- (4) No investment or disbursement of funds shall be made unless authorized by the board of trustees, except that the board, in order to ensure timely market transactions, shall establish investment guidelines and may permit its staff and investment managers who are employed or under contract with the board pursuant to this section to execute purchases and sales of investment instruments within those guidelines without prior board approval.
- (5) In discharging his or her administrative duties under this section, a trustee shall strive to administer the retirement system in an efficient and cost-effective manner for the taxpayers of the Commonwealth of Kentucky.
- (6) Notwithstanding any other provision of KRS 161.220 to 161.716, no funds of the Teachers' Retirement System, including fees and commissions paid to an investment manager, private fund, or company issuing securities, who manages systems assets, shall be used to pay fees and commissions to placement agents. For purposes of this subsection, "placement agent" means a third-party individual, who is not an employee, or firm, wholly or partially owned by the entity being hired, who solicits investments on behalf of an investment manager, private fund, or company issuing securities.
- (7) All contracts for the investment or management of assets of the system shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the system shall comply:
 - (a) On or before July 1, 2017, the board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;
 - (b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;
 - (c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;
 - (d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;
 - (e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and
 - (f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.
- (8)
 - (a) ***The board shall adopt written proxy voting guidelines which are consistent with the fiduciary duties and other requirements of this section.***
 - (b) ***The board shall not adopt the recommendations of a proxy adviser or proxy voting service and shall not allow such proxy adviser or proxy voting service to vote on behalf of the system, unless the proxy adviser or proxy voting service acknowledges in writing and accepts under contract its duties under this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.***
 - (c) ***All shares held by or on behalf of the system, and which the system is entitled to vote under state, federal, or common laws, shall be voted according to the proxy voting guidelines adopted by the board and subject to the fiduciary duties and other requirements of this section by:***
 1. ***The board, the investment committee of the board, or an employee or employees of the system who are fiduciaries under this section and are appointed or otherwise authorized by the board; or***
 2. ***A proxy adviser or proxy voting service that acknowledges in writing and accepts under contract its duties under this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.***

- (d) *All proxy votes shall be reported at least quarterly to the board. For each vote, the report shall provide:*
1. *The vote caption;*
 2. *The date of the vote;*
 3. *The company's name;*
 4. *The vote cast for the system;*
 5. *The recommendation of the company's management; and*
 6. *If applicable, the recommendation of the proxy adviser or proxy voting service.*

Signed by Governor March 24, 2023.

CHAPTER 95

(HB 167)

AN ACT relating to veterinarian licensing and making an appropriation therefor.

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

➔Section 1. KRS 321.175 is amended to read as follows:

- (1) *This chapter shall be known as the Kentucky Veterinary Medicine Practice Act.*
- (2) It is hereby declared that:
- (a) The ~~practices~~~~[practice]~~ of veterinary medicine, *veterinary technology, animal euthanasia, and allied animal health professionals and the operation of veterinary facilities, AAHP facilities, and board-certified animal control agencies are privileges which are*~~[is a privilege which is]~~ granted by legislative authority *and are subject to regulation and control* in the interest of public health, safety, and welfare~~[.]~~ to protect the public from:
 1. Being misled by incompetent, unscrupulous, and unauthorized practitioners;~~[, and from]~~
 2. Unprofessional or illegal practices by persons licensed to practice veterinary medicine, *veterinary technology, animal euthanasia, and the allied animal health professions;*
 3. *Substandard care; and*
 4. *Unlicensed persons;*~~[this chapter is enacted in the interest of the health, safety, and welfare of the animal population and the citizens of Kentucky.]~~
 - (b) *It is a matter of public interest and concern that the practices of veterinary medicine, veterinary technology, animal euthanasia, and allied animal health professions working on animals merit and receive the confidence of the public and that only qualified individuals be permitted to practice these professions in the Commonwealth. This chapter shall be liberally construed to carry out these objectives and purposes;*
 - (c) *The intent of this chapter is to regulate the professions of veterinary medicine, veterinary technology, animal euthanasia, and allied animal health professional work on animals and to establish standards for veterinary premises and AAHP premises, both fixed and mobile, and shall result in displacing competition by restricting licensure, permitting, certification, and registration to practice these professions, as this practice is defined and interpreted by the board, to persons and premises determined by the board to be qualified under this chapter; and*
 - (d) *Any resulting restriction on competition is outweighed by the broader interest in protection of the public health, safety, and welfare. It is understood that the regulatory structure calls for veterinarians, veterinary technicians, AAHPs, and citizens at large to serve on the board and this chapter recognizes the need for professional expertise provided by veterinarians and veterinary technicians serving the public interest.*

- (3) *This chapter is intended to provide active oversight and supervision through its legislative enactment, the promulgation of administrative regulations, the appointment of board members by the Governor, legal representation of the board by competent counsel, legislative appropriation of moneys and spending authority to support the board, and engagement in the administrative regulation review process under the auspices of the Legislative Research Commission.*
- (4) *It is the purpose of this chapter to promote, preserve, and protect the public health, safety, and welfare by and through the licensure, permitting, certification, registration, and regulation of individuals, whether physically located within or outside of the Commonwealth, who practice veterinary medicine, veterinary technology, animal euthanasia, and AAHP services within Kentucky, and the registration of veterinary facility locations, AAHP facility locations, and mobile facilities where veterinary medicine or AAHP activities are being practiced. In furtherance of this purpose, the Kentucky Board of Veterinary Examiners is created, and its members, functions, and procedures shall be established in accordance with this chapter.*
- (5) *The purpose of this chapter is to establish a comprehensive scheme to fully occupy the fields of veterinary medicine, veterinary technology, AAHP work on animals, and animal euthanasia, and provide a uniform regulatory scheme to be enforced by the Kentucky Board of Veterinary Examiners as defined in the scopes of practice.*

➔SECTION 2. KRS 321.181 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in this chapter:

- (1) *"Allied animal health professional" or "AAHP" means a professional who has completed an approved allied animal health professional program as defined by administrative regulation and who offers specialized, limited services as defined by administrative regulation to an animal patient in animal chiropractic;*
- (2) (a) *"Allied animal health professional facility" or "AAHP facility" means any building, fixed facility, place, premises, mobile facility, mobile unit, or location from which the practice of allied animal health professionals on animals is conducted or performed, including but not limited to a mobile clinic or facility, outpatient clinic, emergency facility, specialty facility, referral facility, human facility, or center.*
- (b) *An AAHP facility includes all fixed buildings used in AAHP practice at a single physical premises location.*
- (c) *An AAHP facility does not include:*
1. *The premises of a client unless a fixed allied animal health professional facility is located on the premises;*
 2. *A research facility;*
 3. *A federal military base;*
 4. *Locations for temporary animal exhibition;*
 5. *State or federal regulatory facilities; or*
 6. *An approved allied animal health professional program location;*
- (3) *"Allied animal health professional manager" or "AAHP manager" means at least one (1) board-permitted AAHP who registers to assume responsibility for the registration, management, and operation of a registered allied animal health professional facility;*
- (4) *"Allied animal health professional permit" or "AAHP permit" means a credential issued to an allied animal health professional who is permitted by the board to practice on animals in the Commonwealth and to conduct specialized services for an animal patient limited to the scope of work as defined in administrative regulation by the board;*
- (5) *"Animal" means any member of the animal kingdom other than a human, whether living or dead;*
- (6) *"Animal chiropractic" means the science of diagnosing and adjusting or manipulating the subluxations of the articulations of an animal's spine and its adjacent tissues and by applying methods of treatment designed to augment those adjustments or manipulations;*

- (7) *"Animal shelter" means a public agency or private humane society, society for the prevention of cruelty to animals, animal protection shelter or control agency, or other facility that provides shelter and care for homeless, stray, unwanted, or injured animals;*
- (8) *"Applicant" means a person who submits an application for licensure, certification, permit, or registration, whether complete or not, to the board;*
- (9) *"Approved allied animal health professional program" means a school or educational program offering specialized training to provide limited services to an animal patient that has been approved by the board as meeting its administrative standards;*
- (10) *"Approved foreign equivalency program" means a school or educational program that has been approved by the board as meeting its administrative standards, which offers additional training and testing for persons who graduated from a non-board-approved veterinary medical program or non-board-approved veterinary technology program;*
- (11) *"Approved program of continuing education" means an educational program approved by the board or offered by an approved provider of continuing education;*
- (12) *"Approved provider of continuing education" means any person that has met the requirements of the board to provide educational courses that are designed to ensure continued competence in the practice of veterinary medicine, veterinary technology, animal euthanasia, or other area of practice governed by the board;*
- (13) *"Approved veterinary medical program" means a school of veterinary medicine or a veterinary medical education program that has been approved by the board as meeting its administrative standards;*
- (14) *"Approved veterinary technology program" means a school of veterinary technology or a veterinary technology education program that has been approved by the board as meeting its administrative standards;*
- (15) *"Background check" means an inquiry within a system for the collection, processing, preservation, or dissemination of criminal history records maintained by one (1) or more local, state, or federal agencies;*
- (16) *"Board" means the Kentucky Board of Veterinary Examiners;*
- (17) *"Certificate holder" means a person certified by the board;*
- (18) *"Certified animal control agency" means an animal shelter that is certified by the board;*
- (19) *"Certified animal euthanasia specialist" means a person employed by a certified animal control agency who is authorized by the board to humanely euthanize animals by administering drugs designated by the board for euthanasia and sedation including animals owned by the certified animal control agency or animals in emergency care circumstances;*
- (20) *"Chemical restraint" means the use of any controlled substance, veterinary drug, prescription, veterinary prescription drug, or legend drug that restrains or tranquilizes the animal;*
- (21) *"Client" means the owner, owner's agent, or other person presenting the patient for care, who has entered into an agreement with a veterinarian or allied animal health professional on behalf of a patient for the purposes of obtaining veterinary medical services or allied animal health professional services in person or by any means of communication or telehealth;*
- (22) *"Compensation" includes any gift, bonus, fee, money, credit, or other thing of value;*
- (23) *"Complementary and alternative veterinary medicine therapies" means a heterogeneous group of preventive, diagnostic, and therapeutic philosophies and practices that are not considered part of conventional veterinary medicine. These therapies include but are not limited to:*
 - (a) *Veterinary acupuncture, acutheraPy, and acupressure;*
 - (b) *Veterinary homeopathy;*
 - (c) *Veterinary manual or manipulative therapy, such as therapies based on techniques practiced in osteopathy, chiropractic, or physical medicine and therapy;*
 - (d) *Veterinary nutraceutical therapy; and*
 - (e) *Veterinary phytotherapy;*

- (24) *"Consultation" means a veterinarian's receipt of advice, assistance in person, or by any method of communication from a veterinarian or other person whose expertise, in the opinion of the veterinarian, would benefit a patient while the responsibility for the welfare of the patient remains with the veterinarian receiving consultation;*
- (25) *"Continuing education" means training that is designed to ensure continued competence in the practice of veterinary medicine, veterinary technology, or for certified animal euthanasia specialists, permitted allied animal health professionals, or any board credential holder;*
- (26) *"Continuing education contact hour" means a fifty (50) minute clock hour of instruction, not including breaks or meals;*
- (27) *"Conviction" means a formal declaration that someone is guilty of a crime by a court of competent jurisdiction and shall include a finding or verdict of guilt, an admission of guilt, a no contest plea, a plea of nolo contendere, or a guilty plea;*
- (28) *"Credential" means:*
- (a) *Any license, certificate, permit, registration, or other credential issued or approved by the board; or*
 - (b) *The authorization to serve as the veterinarian manager or registered responsible party designated on a veterinary facility registration, as the AAHP manager or registered responsible party designated on an AAHP facility registration, or as the designated on-site manager designated for a certified animal control agency;*
- (29) *"Credential holder" means a person who holds an approved credential issued by the board, which may be one (1) or more of the following:*
- (a) *Certificate;*
 - (b) *License;*
 - (c) *Permit;*
 - (d) *Registration; or*
 - (e) *Special permit;*
- (30) *"Designated on-site manager" means a person who registers with the board to assume responsibility for the ordering, management, use, and disposal of controlled substances at a certified animal control agency;*
- (31) *"Discipline" means any final order, settlement agreement, reprimand, fine, or other adverse consequence assessed against a person by the board or any of its counterparts in other jurisdictions;*
- (32) *"Embryo transfer" means to remove an embryo from any animal for the purpose of transplanting the embryo into another animal, cryopreserving the embryo, or implanting the embryo into any animal, including food and companion animals;*
- (33) *"Emergency care" means immediate treatment that is necessary to sustain life or end suffering of an animal that is in a life-threatening condition;*
- (34) *"Examination" means a qualifying examination approved by the board as a condition for certification, licensure, permit, or registration;*
- (35) *"Expired" is a licensure status whereby the credential holder failed to renew the credential in a timely manner in accordance with the deadline set by the board;*
- (36) *"Extralabel use" means actual use or intended use of a drug in an animal in a manner that is not in accordance with the approved labeling and includes but is not limited to:*
- (a) *Use in species or production class not listed in the labeling;*
 - (b) *Use for indications such as disease or other conditions not listed in the labeling;*
 - (c) *Use at dosage levels, frequencies, or routes of administration other than those stated in the labeling; and*
 - (d) *Deviation from the labeled withdrawal time based on these different uses;*
- (37) *"Felony" means a criminal act as defined by any jurisdiction or by definition under federal law;*

- (38) *"Fixed facility" means a permanent location that is generally not moveable;*
- (39) *"Grievance" or "complaint" means any allegation of misconduct that may constitute a violation of this chapter or any administrative regulation promulgated under the authority of this chapter;*
- (40) *"Impaired" means that a credential holder, designated on-site manager, veterinarian manager, AAHP manager, or registered responsible party may reasonably be unable to perform that person's duties with competence, skill, and safety because of a physical or mental disability or incapacity, including deterioration of mental capacity, loss of motor skills, or substance use or disorder of sufficient degree which may reasonably diminish the person's ability to deliver competent patient care;*
- (41) *"In-person" means physically in the same physical space;*
- (42) *"Informed consent" or "consent" means the veterinarian or allied animal health professional permittee has informed the client or the client's authorized representative in a manner understood by the client or the client's authorized representative of the diagnostic and treatment options, potential outcomes, risk assessment, prognosis, and options and the client has consented to or knowingly declined the recommended services or treatment;*
- (43) *"Jurisdiction" means:*
- (a) *Any Commonwealth, state, or territory of the United States of America, including the District of Columbia;*
 - (b) *Any province of Canada; or*
 - (c) *A regulatory organization, including an international body;*
- that issues licenses, registrations, permits, or certificates related to the professional fields of veterinary medicine;*
- (44) *"Licensee" means a person licensed by the board under this chapter;*
- (45) *"Livestock" means bovines, equines, sheep, goats, swine, poultry, captured or cultivated aquatic species, farm-raised cervidae and camelidae, bees, and any other species used in the production of fiber, meat, eggs, honey, milk, and other animal food products;*
- (46) *"Mobile facility" or "mobile unit" means a motor vehicle that is utilized pursuant to Section 16 of this Act;*
- (47) *"Patient" means any animal or group of animals receiving care from a veterinarian, veterinary technician, veterinary assistant, animal euthanasia specialist, or allied animal health professional;*
- (48) *"Permittee" means a person permitted by the board under this chapter;*
- (49) *"Person" means any individual, firm, partnership, association, joint venture, cooperative, corporation, governmental body, or any other group, legal entity, or combination acting in concert, and whether or not acting as a principal, trustee, fiduciary, receiver, or as any kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of the person;*
- (50) *"Practice of veterinary medicine" means any person who practices veterinary medicine when performing any one (1) or more of the following on an animal:*
- (a) *Directly or indirectly diagnoses, prognoses, corrects, changes, relieves, prevents, supervises, recommends, or performs medical or surgical treatment, including complementary and alternative veterinary medicine therapies, obstetrics, dentistry, oral surgery, acupuncture, laser therapy, manipulation, and all other branches or specialties of veterinary medicine, for the diagnosis, prevention, cure, or relief of a wound, defect, deformity, fracture, bodily injury, disease, or dental, physical, behavioral, or mental condition;*
 - (b) *Prescribes, dispenses, or administers any drug, medicine, anesthetic, biologic, appliance, apparatus, application, treatment, or other therapeutic or diagnostic substance or technique for veterinary purposes, or performs euthanasia, in accordance with the applicable federal statutes and regulations governing controlled prescription drugs, legend drugs, and veterinary drugs;*
 - (c) *Performs any manual procedure for the diagnosis, treatment, or both of pregnancy, sterility, or infertility, including embryo transfer;*
 - (d) *Represents oneself, directly or indirectly, as engaging in the practice of veterinary medicine; or*

- (e) *Uses any words, letters, or titles as to induce the belief that the individual using them is authorized to practice veterinary medicine under this chapter with such use being prima facie evidence of the intention to represent oneself as engaged in the practice of veterinary medicine;*
- (51) *"Practice of veterinary technology" means:*
- (a) *The practices of veterinary technology when performing patient care, professional medical care, monitoring, treatment, or other services on an animal that require a technical understanding of veterinary medicine on the basis of written or oral instruction of a veterinarian, or under supervision of a veterinarian; and*
- (b) *1. Representation of oneself, directly or indirectly, as a licensed veterinary technician or "LVT"; or*
- 2. Use of any words, letters, or titles under circumstances that would induce the belief that the individual using them is authorized to practice as a veterinary technician under this chapter, with such use being prima facie evidence of the intention to represent oneself as engaged in practice as a veterinary technician;*
- (52) *"Premises" means any place where an animal is located when veterinary medicine is being practiced;*
- (53) *"Prescription" means an order for a drug or medicine, combination or mixture of drugs or medicines, or proprietary preparation that is signed, given, or authorized and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in a patient;*
- (54) *"Registrant" means a person or premises registered with the board under this chapter;*
- (55) *"Registered allied animal health professional facility" or "registered AAHP facility" means an AAHP facility that is registered with the board;*
- (56) *"Registered facility" means any AAHP facility or any veterinary facility that is registered with the board;*
- (57) *"Registered responsible party" means at least one (1) person who:*
- (a) *Does not otherwise hold a credential with the board who is designated as the registered responsible party on a facility registration and is responsible for its operation and management in conjunction with the veterinarian manager or allied animal health professional manager; and*
- (b) *Is held accountable to the board as a credential holder for any violation of this chapter and its associated administrative regulations. At a minimum, the registered party shall include all persons, owners, and corporate owners of the registered veterinary facility or allied animal health professional facility;*
- (58) *"Registered veterinary facility" means a veterinary facility that is registered with the board;*
- (59) *"Supervision" pertains to any of the following:*
- (a) *"Supervising veterinarian" means a veterinarian who assumes responsibility for the veterinary care given to a patient by an individual working under the veterinarian's direction and has examined the patient pursuant to currently acceptable standards of care;*
- (b) *"Immediate supervision" means the supervising veterinarian is physically in the immediate area and within audible and visual range of the patient and the individual treating the patient;*
- (c) *"Direct supervision" means the supervising veterinarian is readily available on the premises where the patient is being treated; and*
- (d) *"Indirect supervision" means the supervising veterinarian need not be on the premises but has given either written or oral instructions for the treatment of the patient and is readily available for communication;*
- (60) *"Teleadvice" means the provision of any health information, opinion, guidance, or recommendation concerning prudent future actions that are not specific to a particular patient's health, illness, or injury;*
- (61) *"Teleconsulting" means telehealth in which a veterinarian, veterinary technician, AAHP, or other credential holder uses telehealth tools to communicate with a specialist or another professional to gain insights and advice on the care of a patient;*

- (62) *"Telehealth" means all uses of technology to remotely gather and deliver health information, advice, education, and care;*
- (63) *"Telemedicine" or "connected care" means the integration of digital technologies to enhance and support the VCPR and facilitate proactive and ongoing care through improved communication, diagnosis, and monitoring;*
- (64) *"Telemonitoring," or "mHealth" or "mobile health," means remote monitoring of a patient who is not at the same location as the health care provider;*
- (65) *"Telesupervision" means the supervision of individuals using media such as audio or audio/video conference, text messaging, and e-mail;*
- (66) *"Triage" means the safe, appropriate, and timely assessment and management of an animal patient via electronic consultation with its owner, regardless of whether there is an immediate referral to a veterinarian and where a diagnosis is not rendered;*
- (67) *"Veterinarian" means an individual who is licensed to engage in the practice of veterinary medicine under this chapter;*
- (68) *"Veterinarian manager" means at least one (1) Kentucky-licensed veterinarian who registers to assume responsibility for the registration, management, and operation of a registered veterinary facility;*
- (69) *"Veterinarian-client-patient relationship" or "VCPR" has the same meaning as in Section 10 of this Act;*
- (70) *"Veterinary assistant" means a layperson or noncredential holder who is employed by a veterinarian in accordance with Section 29 of this Act;*
- (71) (a) *"Veterinary facility" means any building, fixed facility, place, premises, mobile facility, or mobile unit location from which the practice of veterinary medicine and practice of veterinary technology are conducted or performed, including but not limited to a mobile clinic or facility, outpatient clinic, veterinary hospital or clinic, emergency facility, specialty facility, referral facility or center, temporary health clinic, or spay/neuter location. A veterinary facility shall include all fixed buildings used for the practice of veterinary medicine at a single physical premises location.*
- (b) *"Veterinary facility" does not include:*
1. *The premises of a veterinary client unless a fixed veterinary facility is located on the veterinary client's premises;*
 2. *A research facility;*
 3. *A federal military base;*
 4. *Locations for temporary animal exhibition;*
 5. *State or federal regulatory facilities;*
 6. *Officially designated emergency and disaster response locations;*
 7. *A facility with current accreditation by the Association of Zoos and Aquariums; or*
 8. *An American Veterinary Medical Association-accredited college of veterinary medicine or veterinary technology;*
- (72) *"Veterinary specialist" means a veterinarian that has been awarded and maintains certification from an American Veterinary Medical Association-recognized veterinary specialty organization, program, or college, and is registered in this specialty with the board;*
- (73) *"Veterinary student" means:*
- (a) *A person enrolled in an approved veterinary medical program while pursuing a degree in veterinary medicine; or*
 - (b) *A person in a post-Doctor of Veterinary Medicine temporary private internship, residency, or veterinary hospital-based program, not to exceed thirty (30) days in a calendar year;*
- (74) *"Veterinary technician" means a person who has completed an approved veterinary technology program, is licensed in accordance with this chapter, and meets the requirements in Section 28 of this Act;*

- (75) *"Veterinary wellness committee" means a committee appointed by the board that is composed of individuals who have expertise in the areas of alcohol abuse, chemical dependence, drug abuse, or physical or mental condition designated by the board to perform activities related to the veterinary wellness program; and*
- (76) *"Veterinary wellness program" means the board-sponsored program for the identification, intervention, and monitoring of credential holders or applicants who may be impaired as a result of alcohol abuse, chemical dependence, drug abuse, or any physical or mental condition.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

Telehealth shall be authorized for veterinary practice. Telehealth is divided into categories based on who is involved in the communication. For communication between veterinarians and other persons, there are distinctions in practice related to whether a VCPR as set forth in Section 10 of this Act has been established with the patient. Different types of veterinary telehealth include the following:

- (1) *Telemonitoring, mHealth, or mobile health applications and wearables which are:*
- (a) *Designed to augment animal health care within VCPRs; or*
 - (b) *Designed and marketed directly to consumers for their education and for animal monitoring without clinical input and outside the context of a VCPR;*
- (2) *Telesupervision, which shall be permitted as a part of telehealth practice;*
- (3) *Telemedicine or connected care, which provides the delivery of information specific to a particular patient and shall be conducted within the context of an established VCPR to ensure protection for the patient, subject to the following:*
- (a) *Telemedicine or connected care is an approach to veterinary practice that is patient- and client-centered, and actively engages the entire veterinary healthcare team. This type of telehealth involves use of one (1) or more tools to exchange medical information electronically from one (1) site to another to improve a patient's clinical health status, which may be utilized to augment the practice of veterinary medicine. The appropriate application of connected care or telemedicine can enhance animal care by facilitating communication, diagnostics, treatments, client education, scheduling, and other tasks;*
 - (b) *Practitioners providing telemedicine or connected care to patients in the Commonwealth shall be credentialed to practice by the board and operate in association with a registered veterinary facility or registered allied animal health professional facility in Kentucky. Practitioners practicing this type of telemedicine shall comply with all state and federal statutes and regulations, including requirements for access to follow-up care; and*
 - (c) *Telemedicine or connected care provided to patients in Kentucky shall only be conducted within an existing VCPR as set forth in Section 10 of this Act and is required to be reestablished through an in-person visit every twelve (12) months, with the exception of advice given in an emergency care situation or teletriage until a patient can be seen by or transported to a veterinarian. The VCPR for that twelve (12) months shall be deemed to constitute a relationship in Kentucky, regardless of whether the patient or client travels outside the Commonwealth; and*
- (4) *Telehealth conducted without a VCPR, which may include only the delivery of general advice, educational information, and teletriage. Telehealth which may be conducted without a VCPR includes:*
- (a) *Teleadvice, which is general advice that is not intended to diagnose, prognose, treat, correct, change, alleviate, or prevent animal disease, illness, pain, deformity, defect, injury, or other physical, dental, or mental conditions. If the practitioner providing the teleadvice is a qualified veterinarian, veterinary technician, allied animal health professional, or other board credential holder, the practitioner shall be required to hold a valid credential from the Kentucky board, except as authorized by Section 14 of this Act, shall comply with all state and federal statutes and regulations, and shall disclose the practitioner's name and Kentucky credential number to the person receiving services;*
 - (b) *Teleconsulting, in which the established VCPR remains with the veterinarian seeking advice or counsel; and*
 - (c) *Teletriage, when in assessing patient condition electronically, the assessor determines urgency and the need for immediate referral to a veterinarian, based on the owner's or responsible party's report*

of history and clinical signs, sometimes supplemented by visual information, such as photographs or video. Practitioners providing telerriage to patients in the Commonwealth shall be credentialed to practice by the board in Kentucky, shall comply with all state and federal statutes and regulations, and shall disclose the practitioner's name and Kentucky credential number to the person receiving services.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

- (1) *Each veterinarian or AAHP who provides medical services to animals shall maintain accurate electronic or legibly written medical records that include the identity of the credential holder or authorized representative who makes the entry.*
- (2) *The information in the medical records are the property of the client, and the client has a right to a copy of those records. The practice where the records were prepared shall be the official records custodian. Original patient records shall be retained by the practice, veterinarian, or AAHP who prepared them and be readily retrievable for a period of five (5) years following the last patient encounter. Records shall not be stored by a third party without a record of signed, informed consent by the client. Records stored by a third party shall not relieve the veterinarian or AAHP from the responsibility of supplying records to the client upon request.*
- (3)
 - (a) *The veterinarian or AAHP may require that a request for medical records be in writing and may charge a reasonable fee for copying or the staff time in preparing the requested medical records, unless there is a board investigation, in which case no charges shall be authorized.*
 - (b) *Copies of the medical records shall be provided to the client, designated veterinarian, AAHP permittee, or authorized representative within seven (7) calendar days after receipt of a proper request or sooner in accordance with the patient's medical condition.*
 - (c) *Failure to provide the medical records in a timely fashion upon proper request shall be considered unprofessional conduct.*
- (4) *All records required by law to be kept by a veterinarian or AAHP shall be open to inspection by the board or its authorized representatives, and a copy shall be provided immediately upon request.*
- (5) *All records shall comply with the requirements set forth by the board in administrative regulations.*
- (6) *An animal patient's medical record and medical condition is confidential and may not be furnished to or discussed with any person other than the client or other veterinarians, veterinary technicians, veterinary assistants, veterinary practice staff, AAHP permittees, or consultants involved in the care or treatment of the patient, except upon authorization of the client or under the following circumstances:*
 - (a) *Access to the records is specifically required by law, or as described in Sections 10 and 11 of this Act;*
 - (b) *In response to a court order or subpoena with notice given to the client or the client's legal representative;*
 - (c) *For statistical and scientific research, if the information is abstracted in a way as to protect the identity of the patient and client;*
 - (d) *As part of an inspection or investigation conducted by the board or an agent of the board;*
 - (e) *To verify the rabies vaccination status of an animal;*
 - (f) *In the course of a consultation; and*
 - (g) *As required by other state or federal law.*
- (7) *A veterinarian or AAHP shall not intentionally create a false record, make a false statement, or alter or modify any medical record, document, or report concerning treatment of a patient. When correcting a medical record, the original content should be readable, and the alteration shall be clearly identified with the correction, reason for correction, date, and author's name.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

- (1) *Each person who is licensed as a veterinary technician shall submit a completed renewal application by the renewal deadline and pay to the board an annual renewal fee for the renewal of the person's license.*
- (2) *A sixty (60) day grace period shall be allowed after the renewal deadline, during which time individuals may renew their licenses upon submission of a completed renewal application and payment of the renewal*

fee and a late fee to the board. All licenses not renewed by the grace period deadline shall expire based on the failure of the individual to renew in a timely manner. Upon expiration, the veterinary technician licensee is no longer eligible to practice in the Commonwealth.

- (3) *After the sixty (60) day grace period, individuals with an expired veterinary technician license may have their licenses reinstated upon submission of a completed reinstatement application and payment of a reinstatement fee to the board. No person who applies for reinstatement after expiration of the person's license shall be required to submit to an examination as a condition for reinstatement if a reinstatement application is made within five (5) years from the date of expiration.*
- (4) *A suspended license is subject to expiration and termination and shall be renewed as provided in this chapter. Renewal or reinstatement shall not entitle the licensee to engage in the practice until the suspension has ended or is otherwise removed by the board and the right to practice is restored by the board.*
- (5) *A revoked license is subject to expiration or termination but may not be renewed. If it is reinstated, the licensee shall pay the reinstatement fee.*
- (6) *A person who fails to reinstate a license within five (5) years after its expiration or termination may not have it renewed, restored, reissued, or reinstated. A person may apply for and obtain a new license by meeting the requirements of this chapter.*
- (7) *The board may require that a person applying for renewal or reinstatement of licensure show evidence of completion of continuing education as established in administrative regulations promulgated in accordance with KRS Chapter 13A.*
- (8) *The board may grant retired or inactive licensure status and may establish conditions under which retired or inactive licenses may be renewed as established in administrative regulations promulgated in accordance with KRS Chapter 13A.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

- (1) *Each person who is certified as an animal euthanasia specialist shall submit a complete renewal application by the renewal deadline and pay to the board an annual renewal fee for the renewal of the person's certificate.*
- (2) *Each animal shelter that is certified as an animal control agency shall submit a completed renewal application by the renewal deadline and pay to the board an annual renewal fee for the renewal of the animal control agency certificate.*
- (3) *A sixty (60) day grace period shall be allowed after the renewal deadline, during which time individuals and agencies may renew their certificates upon submission of a completed application, and payment of the renewal fee and a late fee to the board. Any certificate that was not renewed by the grace period deadline shall expire. Upon expiration, the holder of that certificate is no longer eligible to practice animal euthanasia in the Commonwealth or maintain a United States Drug Enforcement Administration controlled substances registration.*
- (4) *After the sixty (60) day grace period, individuals and agencies with an expired certificate may have their certificates reinstated upon submission of a completed reinstatement application and payment of a reinstatement fee to the board if the reinstatement application is made within five (5) years from the date of expiration. Animal control agencies may be subject to inspection prior to reinstatement.*
- (5) *A suspended certificate is subject to expiration and termination and shall be renewed as provided in this chapter. Renewal or reinstatement shall not entitle the certificate holder to engage in the practice until the suspension has ended or is otherwise removed by the board and the right to practice is restored by the board.*
- (6) *A revoked certificate is subject to expiration or termination but may not be renewed. If it is reinstated, the certificate holder shall pay the reinstatement fee.*
- (7) *A person or agency that fails to reinstate its certificate within five (5) years after its expiration or termination shall not have it renewed, restored, reissued, or reinstated. A person or agency may apply for and obtain a new certificate by meeting the requirements of this chapter.*

- (8) *The board may require that a person or agency applying for renewal or reinstatement of the certificate show evidence of completion of additional training or continuing education as set forth by administrative regulation promulgated in accordance with KRS Chapter 13A.*
- (9) *The board may grant retired or inactive certificate status for certified animal euthanasia specialists and may establish conditions under which retired or inactive certificates may be renewed as set forth by administrative regulations promulgated in accordance with KRS Chapter 13A.*
- (10) *The board shall require any applicant seeking to become registered as the designated on-site manager for an animal control agency to submit to a criminal background investigation conducted in accordance with Section 7 of this Act.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

The board shall require a national and state criminal background investigation for every applicant seeking a license, certificate, registration, or permit issued by the board permitting the applicant to engage in a veterinary practice or activity regulated by the board. The criminal background investigation shall be by means of a fingerprint check by the Department of Kentucky State Police or equivalent state police body in the applicant's home state and the Federal Bureau of Investigation, pursuant to the following requirements:

- (1) *The applicant shall provide his or her fingerprints to the Department of Kentucky State Police, or equivalent state police body in the applicant's home state, for submission to the Federal Bureau of Investigation after a state criminal background check is conducted;*
- (2) *The results of the national and state criminal background check shall be sent to the board for the screening of applicants;*
- (3) *The board shall be prohibited from releasing any criminal history record information to any private entity or other licensing board, or authorizing receipt by such entity or board; and*
- (4) *Any fee charged by the Department of Kentucky State Police or the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the background check. The board may charge this fee to the applicant for licensure or certification.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

- (1) *The board may promulgate administrative regulations in accordance with KRS Chapter 13A defining:*
 - (a) *Application, renewal, and reinstatement requirements and fees for veterinary facilities and AAHP facilities;*
 - (b) *Responsibilities and limitations for registered responsible parties, veterinarian managers, and AAHP managers. This shall include an administrative regulation governing interference or control by unlicensed persons in the practice of veterinary medicine or veterinary technology, or by persons who do not hold a board credential. Both registered responsible parties and veterinarian managers shall be responsible for a registered veterinary facility's operation and management, and both registered responsible parties and AAHP managers shall be responsible for a registered AAHP facility. Both parties associated with a registered facility shall be held accountable to the board as a credential holder for any violation of this chapter; and*
 - (c) *Minimum standards for veterinary facilities, mobile facilities, and AAHP facilities, including requirements for application, inspection, sanitation, and other factors.*
- (2)
 - (a) *All existing veterinary facilities and AAHP facilities, both fixed and mobile, shall be registered with the board not later than June 30, 2025.*
 - (b) *The board shall charge a minimum fee of two hundred dollars (\$200) per initial registration.*
 - (c) *For initial registrations filed with the board by June 30, 2025, the initial registration fee shall be reduced by half to one hundred dollars (\$100).*
 - (d) *After initial registration, the board shall not charge more for a facility registration renewal fee than the cost to run the registration program.*
- (3)
 - (a) *After June 30, 2025, all new facilities shall submit a completed application for registration to the board, including fees as promulgated by the board in administrative regulation.*

- (b) *A new veterinary facility or AAHP facility shall not begin operation in the Commonwealth until the completed application and fee have been accepted by the board and notification in writing has been sent to the applicant.*
- (c) *After the registration deadline in 2025, each new registered facility may be inspected by the board to verify that the facility is an operational veterinary facility or AAHP facility within the first one hundred twenty (120) days of operation.*
- (4) *A mobile facility that is affiliated with a registered veterinary facility or AAHP facility shall be exempted from the requirement to register independently if a currently registered fixed facility identifies that unit as its affiliate. The board may charge additional registration fees to a registered veterinary facility or AAHP facility based upon the number of registered mobile units associated with a single facility registration through the promulgation of an administrative regulation in accordance with KRS Chapter 13A.*
- (5) *Each application to register a veterinary facility or an AAHP facility shall meet the minimum requirements established by this chapter and the board in an administrative regulation promulgated in accordance with KRS Chapter 13A and identify the following persons responsible for its operation and management:*

 - (a) *The registered responsible party;*
 - (b) *The veterinarian manager, if a veterinary facility; or*
 - (c) *The AAHP manager, if an AAHP facility.*
- (6) (a) *The veterinarian manager shall include at least one (1) Kentucky-licensed veterinarian with an active license in good standing with the board.*

(b) *The AAHP manager shall include at least one (1) Kentucky-permitted AAHP with an active permit in good standing with the board.*
- (7) (a) *The veterinarian manager and the registered responsible party are responsible for notifying the board of any change in the veterinarian manager's or registered responsible party's association with the veterinary facility.*

(b) *The AAHP manager and the registered responsible party are responsible for notifying the board of any change in the allied animal health professional's or registered responsible party's association with the AAHP facility.*
- (8) *An application for registration renewal shall be completed and submitted to the board periodically after the initial registration deadline in 2025, in accordance with Section 9 of this Act and as set forth in administrative regulations promulgated in accordance with KRS Chapter 13A.*
- (9) *The board may conduct voluntary inspections in accordance with the following:*

 - (a) *Veterinary facilities and AAHP facilities shall be provided an option to conduct a self-inspection at the facility and may consult with the board or request a board inspection to ensure the facility is meeting minimum standards, as established in administrative regulations promulgated in accordance with KRS Chapter 13A;*
 - (b) *The board may charge a fee for in person consultations and inspections as established in administrative regulation promulgated in accordance with KRS Chapter 13A;*
 - (c) *Voluntary consultations or inspections by the board shall not trigger a notice to comply or a notice of violation for deficiencies. Nothing in this paragraph shall be construed to limit the board from filing a grievance based upon a significant violation impacting public health, safety, and welfare, and animal health;*
 - (d) *Each registered facility that passes a voluntary, in-person inspection by the board shall receive a certificate of inspection from the board for display in the registered facility;*
 - (e) *Inspections of mobile units shall not extend into a registrant's private residence; and*
 - (f) *This subsection shall not prevent the board from conducting inspections at or implementing disciplinary action against a registered facility in response to a complaint, grievance, or upon a suspected violation of this chapter.*

- (10) *The board may revoke, suspend, or take other disciplinary action deemed appropriate against the registrant, including ordering closure of the veterinary facility or AAHP facility, in accordance with Sections 25 and 26 of this Act on any of the following grounds:*
- (a) *The board or its agents are denied access to conduct an inspection or investigation;*
 - (b) *The holder of a registration does not pay all prescribed fees or monetary penalties;*
 - (c) *There is no veterinarian manager or AAHP manager identified within the timeframes set by this chapter;*
 - (d) *Registered responsible parties are interfering with, exercising control over, or attempting to influence the professional judgment of a credential holder in any manner;*
 - (e) *Failure to comply with minimum standards defined in administrative regulation by the board for the veterinary facility or AAHP facility; or*
 - (f) *Failure to comply with any provision of this chapter or administrative regulations promulgated under this chapter.*
- (11) *The board may require any veterinarian manager applicant, AAHP manager applicant, or registered responsible party applicant to submit to a criminal background investigation conducted in accordance with Section 7 of this Act.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

- (1) *Each veterinary facility and allied animal health professional facility registered with the board shall submit a completed renewal application by the renewal deadline and pay a biennial renewal fee for the renewal of the registration.*
- (2) *A veterinary facility or AAHP facility with an expired registration may have its registration reinstated upon submission of a completed reinstatement application and payment of a reinstatement fee to the board.*
- (3) *A suspended veterinary facility registration or AAHP facility registration is subject to expiration and termination and shall be renewed as provided in this chapter. Renewal or reinstatement shall not entitle the registrant to allow the practice of veterinary medicine or AAHP practice on the premises or from the mobile facility until the suspension has ended or is otherwise removed by the board and the right to operate or practice is restored by the board.*
- (4) *A revoked registration is subject to expiration or termination but may not be renewed. If it is reinstated, the credential holder shall pay the reinstatement fee to the board.*
- (5) *A veterinary facility or AAHP facility that fails to reinstate its registration within five (5) years after its expiration or termination shall not have it renewed, restored, reissued, or reinstated. A veterinary facility or AAHP facility may apply for and obtain a new registration by meeting the requirements of this chapter.*
- (6) *The board may require that a veterinary facility or AAHP facility applying for renewal or reinstatement of registration show evidence of completion of continuing education by the veterinarian manager, AAHP manager, or registered responsible party as prescribed by administrative regulation promulgated by the board.*

➔Section 10. KRS 321.185 is amended to read as follows:

- (1) In order for a veterinarian to practice veterinary medicine, a relationship among the veterinarian, the client, and the patient shall be established and maintained. *The []veterinarian-client-patient relationship[] or VCPR is the basis for veterinary care and* means that:
 - (a) *The veterinarian **and the client or other caretaker of the patient both agree for the veterinarian to assume**~~has assumed the~~ responsibility for making **medical** judgments regarding the health of the animal ~~and the need for veterinary treatment, and the client, whether owner or other caretaker, has agreed to follow the instructions of the veterinarian~~];*
 - (b) *There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that **within the previous twelve (12) months** the veterinarian **either physically examined the animal or made a medically appropriate in-person visit**~~has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal or by medically appropriate and timely visits~~] to the premises where the animal is kept; and*

- (c) The ~~practicing~~ veterinarian *has assumed responsibility for providing follow-up care and continuation of care to the patient, except in cases where the veterinarian has:*
1. *Arranged for or contracted for emergency care or urgent care coverage by another veterinarian who can provide reasonable and appropriate medical care and has notified the client how to access emergency care; or*
 2. *Notified the client of an available registered facility that can provide reasonable and appropriate medical care* ~~[is readily available or shall provide medical service for follow up in ease of adverse reactions or failure of the regimen of therapy. A new regimen of therapy shall be contingent only upon cooperation of the client and availability of the subject animal].~~
- (2) *The VCPR may extend to another veterinarian employed in the same registered facility who is licensed to practice veterinary medicine within the Commonwealth, so long as the other Kentucky-licensed veterinarian has sufficient knowledge in the medical record to make a decision.*
- (3) The veterinarian shall maintain records ~~that~~ ~~[which]~~ document patient visits, diagnosis, treatment, and other relevant information, *as required by Section 4 of this Act.*
- (4) ~~(3)~~ (a) A veterinarian shall not violate the confidential relationship between the veterinarian and the veterinarian's client. *Consultation by the veterinarian with another veterinarian or professional expert for the benefit of the patient shall not constitute a violation of confidentiality.*
- (b) A veterinarian shall not release information concerning a client or care of a client's animal, except:
1. On the veterinarian's receipt of:
 - a. A written authorization or other form of waiver executed by the client; or
 - b. An appropriate court order or subpoena; ~~or~~
 2. In cases of animal abuse, pursuant to KRS 321.188;
 3. *In cases of reportable diseases as they relate to public or animal health pursuant to KRS 257.080 and 258.065 and the administrative regulations promulgated under the authority of those statutes;*
 4. *Other exceptions established in Sections 4 and 14 of this Act; or*
 5. *Upon request from the board.*
- (c) A veterinarian who releases information under paragraph (b) of this subsection shall not be liable to any person, including the client, for an action resulting from the disclosure.
- (d) The privilege provided by this subsection is waived by the client or the owner of an animal treated by the veterinarian to the extent the client or owner places at issue in a civil or criminal proceeding:
1. The nature and extent of the animal's injuries; or
 2. The care and treatment of the animal provided by the veterinarian.
- (e) This subsection shall not apply to:
1. An inspection or investigation conducted by the board or an agent of the board; or
 2. The veterinary reporting requirements and regulatory authority of the Kentucky Horse Racing Commission to inspect, investigate, and supervise horses and other participants in horse racing as provided by KRS Chapter 230 and the administrative regulations promulgated under KRS Chapter 230, or any other *state or federal* law applicable to the regulation of horse racing in the Commonwealth.
- (5) ~~(4)~~ Veterinarians providing copies of records under this section may charge no more than the actual cost of copying, including reasonable staff time.
- (6) *A licensed veterinarian who in good faith engages in the practice of veterinary medicine by rendering or attempting to render emergency care or urgent care to an animal when a client cannot be identified shall not be subject to penalty based solely on the veterinarian's inability to establish a VCPR with an owner or the owner's representative.*

- (7) *A VCPR shall not be established solely by telehealth means. In the absence of a VCPR, any advice provided through telehealth shall be general and not specific to a patient, diagnosis, or treatment. Veterinary telemedicine shall only be conducted within an existing VCPR, with the exception for advice given in an emergency care situation until that patient can be seen in person by a licensed veterinarian.*

➔Section 11. KRS 321.188 is amended to read as follows:

If a veterinarian finds that an animal with which *the veterinarian*~~[he or she]~~ has a *VCPR*~~[veterinarian-client-patient relationship]~~ has been abused in violation of KRS 525.125, 525.130, 525.135, or 525.137, the veterinarian may make a report to:

- (1) The Office of the State Veterinarian for any animal for which an on-farm livestock or poultry care standard has been promulgated under KRS 257.196; or
- (2) Law enforcement for any other animal.

➔SECTION 12. KRS 321.190 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *The practice of veterinary medicine and the practice of veterinary technology in the Commonwealth are subject to enforcement by the board. Except as otherwise provided in this chapter, it shall be unlawful for any person to engage in the practice of veterinary medicine or the practice of veterinary technology in the Commonwealth through any means unless licensed under the applicable provisions of this chapter, except as provided in Sections 14 and 29 of this Act.*
- (2)
 - (a) *A person shall not use the designation "veterinarian," "licensed veterinarian," or any other designation indicating licensure status, including abbreviations, or hold that person out as a veterinarian unless licensed for that profession.*
 - (b) *A person shall not use the designation "veterinary technician," "licensed veterinary technician," or any other designation indicating licensure status, including abbreviations, or hold that person out as a veterinary technician unless licensed for that profession.*
- (3) *The practice of veterinary medicine by telephonic, videoconference, telehealth, or other means shall constitute the practice of veterinary medicine subject to licensure and enforcement by the board.*
- (4) *A veterinarian shall utilize the services of a licensed veterinary technician or veterinary assistant in accordance with this chapter and the administrative regulations promulgated under the authority of this chapter. Unauthorized utilization of any person's services in violation of this chapter shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine as described in Section 25 of this Act.*
- (5) *Nothing in this chapter shall be construed to prevent members of other professions from performing functions for which they are credentialed by the board and that is within their defined scope of practice. However, these persons shall not hold themselves out or refer to themselves by any title or description stating or implying that they are licensed or otherwise entitled to engage in the practice of veterinary medicine or the practice of veterinary technology.*
- (6) *Except as authorized by Section 14 of this Act, nothing in this chapter shall be construed to permit any person who is not a veterinarian to perform any of the following activities relating to animals:*
 - (a) *Surgery;*
 - (b) *Diagnosis;*
 - (c) *Prognosis; and*
 - (d) *Prescription.*
- (7) *A supervising veterinarian is individually and separately responsible and liable for the performance of the acts delegated to and the omissions of the licensed veterinary technician, veterinary assistant, special permittee, intern, preceptor, resident, or any other individual working under the veterinarian's supervision. Nothing in this section shall be construed to relieve licensed veterinary technicians, veterinary assistants, special permittees, interns, preceptors, residents, or any other individuals working under supervision of any responsibility or liability for any of their own acts or omissions.*
- (8) *Unless exempted by Section 14 of this Act, persons engaging in the practice of veterinary medicine or the practice of veterinary technology without a credential from the board shall be subject to enforcement and discipline by the board as established in Sections 30 and 31 of this Act.*

➔Section 13. KRS 321.193 is amended to read as follows:

The board shall issue a license as a "veterinarian" to an applicant who meets the following requirements:

- (1) **Has completed an application for licensure approved by the board in administrative regulation;**
- (2) Has paid the application fee and the appropriate examination fee;
- (3)~~(2)~~ Is a person of good moral character. **As one (1) element of good moral character, the board shall require each applicant for licensure to submit a full set of the applicant's fingerprints for the purpose of obtaining criminal records checks, pursuant to applicable law. All good moral character information, including the information obtained through the criminal background checks, shall be relevant to licensure eligibility determinations to the extent permitted by law;**
- (4)~~(3)~~ **Has graduated and received a doctorate degree in veterinary medicine or equivalent degree in veterinary medicine from an approved veterinary medical program or approved foreign equivalency program**~~[Has received a degree from a veterinary college approved by the board];~~
- (5)~~(4)~~ Has achieved a passing score~~[, as set by the board by administrative regulation,]~~ on examinations required by administrative regulation promulgated by the board;~~[and]~~
- (6) **Has been approved for licensure by the board; and**
- (7)~~(5)~~ Has complied with any other **requirements of this chapter or**~~[requirement]~~ of the board by administrative regulation.

➔Section 14. KRS 321.200 is amended to read as follows:

- (1) No provision of this chapter shall be construed to prohibit any of the following:
 - (a) Any persons from gratuitously treating animals in cases of emergency **care**, provided they do not use the word "veterinarian," "veterinary," **"veterinary technician," "veterinary nurse,"** or any title, words, abbreviation, or letters in a manner or under circumstances which may induce the belief that the person using them is qualified to **engage in the practice of veterinary medicine or the practice of veterinary technology** as described in KRS 321.181~~(5)~~;
 - (b)
 1. The owner of any animal or animals,~~and~~ the owner's full-time, or part-time, regular employees, **or the owner's agent** from caring for and treating **animals maintained in their custody**, including **but not limited to euthanasia of livestock or administering drugs that are obtained and used in accordance with applicable state and federal statutes and regulations** to, any animals belonging to the owner. **With the exception of paragraph (c) of this subsection and other limiting statutes, treatment shall not include surgery.**
 2. Transfer of ownership,~~or~~ a temporary contract, **or a temporary change in a person's employment status** shall not be used for the purpose of circumventing this provision.
 3. **This provision shall not exempt an employee who would otherwise qualify for a board credential from the credentialing requirements of this chapter based on the employment status;**
 - (c) Any person from castrating **and dehorning** food animals~~and dehorning cattle~~, as long as any drugs or medications are obtained and used in accordance with applicable **state and federal statutes and regulations governing controlled substances,**~~and~~ legend drugs, **and veterinary drugs;**
 - (d) Any **veterinary** student as defined in KRS 321.181 from working under the direct supervision of a veterinarian who is~~duly~~ licensed under **this chapter**~~[the laws of this Commonwealth];~~
 - (e) **Unlicensed**~~[Nonlicensed]~~ graduate veterinarians in the United States Armed Services or employees of the **United States Department of Agriculture, Animal and Plant Health Inspection Service, from engaging**~~[of the United States Department of Agriculture or the Kentucky Department of Agriculture, Division of Animal Health while engaged]~~ in the performance of their official duties~~[, or other lawfully qualified veterinarians residing in other states, from meeting licensed veterinarians of this Commonwealth in consultation];~~
 - (f) **Other lawfully qualified veterinarians who reside in and are licensed in other jurisdictions from discussing or meeting, either in person or via telehealth, with licensed veterinarians of this Commonwealth in consultation about a patient so long as the Kentucky-licensed veterinarian has established and maintains a current VCPR with the patient;**

- (g) A trainer, sales agent, or herdsman from caring for animals, upon instruction from a Kentucky-licensed veterinarian, provided there is a **current VCPR**~~[veterinary-client-patient-relationship,]~~ as defined in KRS 321.185;
- (h)~~(g)~~ A university faculty member **or unlicensed veterinarian employee** from teaching veterinary science or related courses, **providing services offered by the university's veterinary diagnostic laboratory**, or~~[a faculty member or staff member]~~ from engaging in veterinary research **through or on behalf of the university where the person is employed**, including drug and drug testing research, provided that research is conducted in accordance with applicable **state and** federal statutes and regulations governing controlled **substances, prescription drugs, veterinary drugs**, and legend drugs. **This provision shall not exempt the university faculty member or unlicensed veterinarian employee from the requirements of licensure if the person engages in the practice of veterinary medicine outside the authority of the university or the scope of employment with the university or engages in the private practice of veterinary medicine for compensation;**
- (i)~~(h)~~ Any person who holds a postgraduate degree in reproductive physiology or a related field, and who has performed embryo transfers in Kentucky during the five (5) years immediately preceding July 14, 1992, from performing embryo transfers **on animals;**
- (j)~~(i)~~ Volunteer health practitioners providing services under KRS 39A.350 to 39A.366;~~[or]~~
- (k)~~(j)~~ A retailer or its agent from providing information and suggestions regarding the over-the-counter products it sells to treat animals so long as the information and suggestions are consistent with the product label **and species appropriate;**
- (l) **A Kentucky-licensed veterinarian from inspecting an animal, or an animal's radiographs or other medical records, on behalf of a potential buyer or potential seller, without regard to the existence of a VCPR;**
- (m) **Any persons from implanting a microchip in an animal for the purposes of identification or the establishment of ownership;**
- (n) **A veterinarian who is licensed in another jurisdiction of the United States or Canada, is in good standing in that jurisdiction, meets all criteria for licensure in Kentucky, and who has an active application on file with the board pending for less than ninety (90) days, from working as a veterinarian in Kentucky under the supervision of a Kentucky-licensed veterinarian while the board application for licensure is being processed, so long as the place of employment, start date, contact information where the applicant works, and a supervising veterinarian are disclosed in the application;**
- (o) **Allied animal health professional permittees who are working within the scope of the permit;**
- (p) **Certified animal euthanasia specialists who are working within the scope of their certificate; or**
- (q) **Volunteer health practitioners consulting with and assisting a licensed veterinarian at a facility accredited by the Association of Zoos and Aquariums from assisting in the care of and procedures on the zoo animals at the facility while under the supervision of the veterinarian.**
- (2) (a) **An unlicensed veterinarian who does not qualify for licensure in Kentucky and who is** a nonresident of the United States may be employed in this **Commonwealth**~~[state]~~ to **engage in the practice of** veterinary medicine for not more than thirty (30) days **in a calendar**~~[of each]~~ year, provided **the person**~~[he or she]~~:
1. Holds a valid, current license as a veterinarian in **the person's**~~[his or her]~~ home country;
 2. Practices under the direct supervision of a veterinarian licensed in Kentucky;
 3. Registers with the board prior to commencing practice in the **Commonwealth**~~[state]~~; and
 4. Agrees to practice and follow all the rules and administrative regulations of this chapter and be subject to discipline for violations of those rules and administrative regulations by the Kentucky Board of Veterinary Examiners.
- (b) This subsection shall not apply to a nonresident of the United States who is otherwise eligible for a Kentucky license **or other credential** under this chapter.
- (3) Nothing in this chapter shall interfere with the professional activities of any licensed pharmacist.

➔Section 15. KRS 321.201 is amended to read as follows:

- (1) The board may issue a special permit to practice veterinary medicine to *an unlicensed*~~[a nonlicensed]~~ veterinarian who is a qualified applicant to become a licensed veterinarian *and who is awaiting the pending results of a board-approved national examination or the final examination stage of an approved foreign education equivalency program.*~~[by examination.]~~
- (2) *Individuals seeking to obtain a special permit shall apply to the board for licensure and shall be*~~[who is]~~ employed by and *working* under the direct supervision of a Kentucky-~~[]~~licensed veterinarian. *The application shall include a letter of recommendation and acknowledgement of supervisory responsibilities and shall be signed by each supervising licensed veterinarian.*
- (3) The special permit shall *not* be issued *until*~~[after]~~ the application has been *submitted*~~[made]~~ to take the next examination given by *an approved examination provider*~~[the board and the required fees paid. A letter of recommendation from the supervising licensed veterinarian shall be submitted with the application].~~
- (4) The special permit shall expire *seven (7) business days*~~[the day]~~ after the notice of results of the first examination given after the permit was issued.
- (5)~~(2)~~ A special permit *holder* may be subject to the disciplinary procedures as set forth in KRS 321.351.
- (6) *If the special permit holder does not pass an examination attempt, the person may apply for and obtain a new special permit for subsequent examination attempts. The board shall not issue any individual person more than a total of four (4) special permits.*

➔Section 16. KRS 321.205 is amended to read as follows:

- (1) A *credential holder*~~[veterinarian]~~ may *utilize a "mobile facility" or "mobile unit" to conduct business within the scope allowable by their credential.*
- (2) *The mobile facility shall be registered under a current facility registration with the Kentucky Board of Veterinary Examiners in accordance with Sections 8 and 9 of this Act and the administrative regulations promulgated under the authority of this chapter.*
- (3) *The mobile facility and its operators shall comply with all applicable local, state, and federal laws.*
- (4) *The mobile facility may:*
 - (a)~~(1)~~ Make farm or house calls in a motor vehicle or utilize a motor vehicle equipped with special medical or surgical equipment *appropriate for the species-specific services offered* if the *credential holder*~~[veterinarian]~~ has a permanent base of operations with a published address and telephone number~~[recorded with the board]~~ where the *credential holder*~~[veterinarian]~~ may be contacted. *The published contact information shall be on file with the board;*
 - (b)~~(2)~~ Apply the principles of environmental sanitation, food inspection, animal nutrition, artificial insemination, environmental pollution control, zoonotic disease control, and disaster medicine in the promotion and protection of public *and animal health in accordance with administrative regulations promulgated under this chapter;* and
 - (c)~~(3)~~ Engage in the collection of hazardous biological specimens and the use of vaccine which may be injurious to humans, in accordance with applicable *state and* federal statutes and regulations.

➔Section 17. KRS 321.207 is amended to read as follows:

- (1) (a) The *Kentucky* Board of Veterinary Examiners, upon submission of a complete application and payment of a fee established by the board, shall issue to any animal *shelter*~~[control agency]~~ that it determines to be qualified, *an* authorization to apply to the *United States*~~[federal]~~ Drug Enforcement *Administration (DEA)*~~[Agency, including any successor entity,]~~ for a *controlled substance registration*~~[restricted controlled substance registration certificate]~~ for the purchase, possession, *storage,* and *administration*~~[use]~~ of *the specific*~~[sodium pentobarbital or other]~~ drugs *approved*~~[as authorized]~~ by the board~~[for administration by a certified animal euthanasia specialist]~~ to euthanize *or sedate animals for euthanasia for animals owned by the certified animal control agency, or in the case of emergency care related to* injured, sick, or abandoned animals.
- (b) *A certified animal control agency that successfully obtains a DEA controlled substance registration shall comply with all state and federal laws related to the ordering, purchase, storage, tracking, management, and disposal of the drugs obtained under the controlled substance registration.*

- (c) *A certified animal control agency shall comply with certification renewal requirements as set forth in Section 6 of this Act or the certificate shall expire.*
- (2) *A certified animal control agency* ~~[To satisfy the board's authorization, the applicant]~~ shall comply with administrative regulations promulgated by the board which contain standards for proper storage and handling of the drugs the board has **approved** ~~[authorized]~~ for **this** use, and any other provisions as may be necessary to ensure that the drugs are used safely and solely for the purpose set forth in this section.
- (3) (a) *A certified animal control agency shall submit to periodic inspections by the board or its authorized representatives to ensure compliance with DEA controlled substance registration and board requirements;*
- (b) *An applicant for certification as a certified animal control agency shall submit to an inspection by the board or its authorized representatives prior to certification by the board to ensure adequate security for controlled substances storage; and*
- (c) *A previously certified animal control agency with an expired certificate shall submit to inspections by the board or its authorized representatives to ensure proper log updates, removal, and disposal of all drugs obtained under the DEA controlled substance registration.*
- (4) Upon submission of a complete application, payment of a fee established by the board, and successful completion of a board-approved animal euthanasia specialist training course by the applicant, the **Kentucky** Board of Veterinary Examiners shall issue to ~~a~~ ~~[any]~~ person whom it determines to be qualified, a certificate for the person to function as a certified animal euthanasia specialist, **subject to the following restrictions:**
- (a) *A certified animal euthanasia specialist shall comply with certification renewal requirements as set forth in Section 6 of this Act or the certificate shall expire;*
- (b) *A certified animal euthanasia specialist shall maintain an employment relationship with a certified animal control agency to be qualified to practice animal euthanasia;*
- (c) *A certified animal euthanasia specialist is authorized to perform euthanasia only on the premises of the certified animal control agency, except in case of emergency care;*
- (d) *A certified animal euthanasia specialist shall euthanize only animals that are owned by the certified animal control agency or in cases of emergency care. Transfer of ownership or a temporary contract shall not be used for the purpose of circumventing this subsection;*
- (e) *A certified animal euthanasia specialist shall not perform euthanasia at a private residence; and*
- (f) *A certified animal euthanasia specialist shall not perform euthanasia for compensation, except for compensation from the certified animal euthanasia specialist's employment relationship with a certified animal control agency.*
- (5) ~~[(4)]~~ Euthanasia of animals in a certified animal control agency shall **only** be performed by:
- (a) A licensed veterinarian; ~~including~~
- (b) A licensed veterinary technician ~~employed by and~~ functioning under the ~~direct~~ supervision of a licensed veterinarian; ~~or~~
- (c) A certified animal euthanasia specialist as provided for in subsection (4) ~~[(3)]~~ of this section.
- (6) A certified animal control agency that employs a certified animal euthanasia specialist may purchase, possess, and administer **the specific** ~~[sodium pentobarbital or other]~~ drugs **approved by** ~~[that]~~ the board **in administrative regulation** ~~[approves]~~ for the euthanasia **or sedation** of animals **for euthanasia**. **The specific** ~~[Sodium pentobarbital and other]~~ drugs approved by the board shall be the only drugs used **by certified animal euthanasia specialists** for the euthanasia of animals **or sedation of animals for euthanasia** in a certified animal control agency.
- (7) ~~[(5)]~~ Certified animal control agencies and certified animal euthanasia specialists shall be required to renew their certificates at intervals, upon conditions, and upon the payment of fees established by the board **through the promulgation of administrative regulations**.
- (8) (a) *A veterinarian who is contracted or otherwise employed by an animal shelter shall not store drugs obtained under the veterinarian's DEA controlled substance registration in the same locked storage unit where the drugs obtained under another DEA controlled substance registration are stored.*

- (b) *Separate and secure storage arrangements, drug logs, drug order forms, and secure, limited access shall be required for each separate DEA controlled substance registration.*
- (c) *A veterinarian shall not store drugs ordered under the veterinarian's DEA controlled substance registration at an animal shelter unless the DEA controlled substance registration under which the drugs are ordered lists the animal shelter address as the registrant address.*

➔Section 18. KRS 321.211 is amended to read as follows:

- (1) Each person licensed as a veterinarian shall **biennially submit a completed renewal application and** ~~on or before September 30 of each even numbered year,~~ pay to the board a renewal fee ~~to be promulgated by administrative regulation of the board~~ for the renewal of **the person's**^[his] license~~. All licenses not renewed by September 30 of each even numbered year shall expire based on the failure of the individual to renew in a timely manner.~~
- (2) A sixty (60) day grace period shall be allowed after **the renewal deadline**~~September 30~~, as required for renewal in subsection (1) of this section, during which time individuals may renew their licenses upon **submission of a completed renewal application and** payment of the renewal fee plus a late renewal fee ~~as promulgated by administrative regulation of the board~~. All licenses not renewed by **the grace period deadline**~~November 30~~ shall **expire**~~terminate~~ based on the failure of the individual to renew in a timely manner. Upon **expiration**~~termination~~, the licensee is no longer eligible to **engage in the practice of veterinary medicine** in the Commonwealth.
- (3) After the sixty (60) day grace period, individuals with **an expired**~~a terminated~~ license may have their licenses reinstated upon **submission of a completed reinstatement application and** payment of ~~the renewal fee plus~~ a reinstatement fee ~~as promulgated by administrative regulation of the board~~. No person who applies for reinstatement after **expiration**~~termination~~ of **the person's veterinarian**^[his] license shall be required to submit to **an**~~any~~ examination as a condition for reinstatement, if **the** reinstatement application is made within five (5) years from the date of **expiration**~~termination~~.
- (4) A suspended **veterinarian** license is subject to expiration and termination and shall be renewed as provided in this chapter. Renewal **or reinstatement** shall not entitle the licensee to engage in the practice of **veterinary medicine** until the suspension has ended, or is otherwise removed by the board and the right to practice is restored by the board.
- (5) A revoked license is subject to expiration or termination but may not be renewed. If it is reinstated, the licensee shall pay the reinstatement fee ~~as set forth in subsection (3) of this section and the renewal fee as set forth in subsection (1) of this section~~.
- (6) A person who fails to reinstate **the person's veterinarian**^[his] license within five (5) years after its **expiration or termination** shall~~may~~ not have it renewed, restored, reissued, or reinstated. A person may apply for and obtain a new license by meeting the~~current~~ requirements of this chapter.
- (7) The board may require that a person applying for renewal or reinstatement of licensure show evidence of completion of continuing education as **promulgated**~~prescribed~~ by the board **in**~~by~~ administrative regulation.
- (8) The board may grant retired or inactive licensure status and may establish conditions under which retired or inactive licenses may be renewed **and reinstated** as set forth by **the board in** administrative **regulation**~~regulations promulgated by the board~~.

➔Section 19. KRS 321.221 is amended to read as follows:

- (1) The board may issue a **credential**~~license~~ by endorsement to any applicant who, upon **submitting a completed application**~~applying~~ to the board and remitting a fee **established in administrative regulation**~~set by the board~~, demonstrates to the board that **the applicant**~~he~~ has met the following requirements:
 - (a) The applicant is a graduate of **an approved**~~a~~ veterinary **medical program, approved veterinary technology program, or other educational program**~~college~~ approved by the board **as appropriate to the board credential**;
 - (b) The applicant is of good moral character. **As one (1) element of good moral character, the board shall require each applicant to submit a full set of fingerprints for the purpose of obtaining criminal records checks, pursuant to applicable law. All good moral character information, including the information obtained through the criminal background checks, shall be relevant to credential eligibility determinations to the extent permitted by law;**

- (c) The applicant holds a valid *credential*~~[license]~~ to practice veterinary medicine, *veterinary technology, animal euthanasia, or an allied animal health profession* and has *engaged in the practice*~~[practiced veterinary medicine]~~ in another state~~[of the United States]~~, the District of Columbia,~~[or]~~ a territory of the United States, *or a province of Canada* for at least one (1) year immediately preceding application, if the requirements for *credentialing*~~[licensure]~~ in the issuing state *or province* are equal to or higher than the standards required for the issuance of a new *credential*~~[license]~~ under the provisions of this chapter;~~[and]~~
 - (d) The applicant has passed an examination given by the board on the laws and administrative regulations of the Commonwealth *as required in administrative regulations promulgated in accordance with KRS Chapter 13A under the provisions of this chapter; and*
 - (e) *The applicant has been approved for a credential by the board*~~[of Kentucky governing the practice of veterinary medicine].~~
- (2) The board shall not issue a *credential*~~[license]~~ by endorsement to any applicant who is under investigation in another state, territory,~~[or]~~ the District of Columbia, *a Canadian province, or any jurisdiction* for an act which could result in disciplinary action in that jurisdiction until the investigation and disciplinary proceedings have been completed.

➔Section 20. KRS 321.230 is amended to read as follows:

There hereby is created a board to be known as the "Kentucky Board of Veterinary Examiners."

- (1) The board shall consist of *eleven (11) members*:
 - (a) *Ten (10)*~~[Nine (9)]~~ members *shall be* appointed by the Governor, *as follows*:~~[and the Commissioner of Agriculture or the Commissioner's designee.]~~
 - 1. Seven (7) members shall be citizens of the Commonwealth~~[of Kentucky]~~ and shall *be veterinarians*, each~~[have been]~~ lawfully engaged in the practice of veterinary medicine in this Commonwealth for at least two (2) years *immediately*~~[next]~~ preceding the date of the member's appointment;~~[.]~~
 - 2. One (1) member shall be a *citizen of the Commonwealth and shall be a* citizen at large who is not associated with or financially interested in the *practices or businesses*~~[practice or business]~~ regulated;~~[.]~~
 - 3. One (1) member shall be a citizen of the Commonwealth and a licensed veterinary technician who has been employed in the veterinary field in the Commonwealth for at least two (2) years *immediately* preceding the date of *the member's*~~[his or her]~~ appointment; *and*
 - 4. *One (1) member shall be an allied animal health professional permittee who has been working on animals in the Commonwealth for at least two (2) years immediately preceding the date of the member's appointment; and*
 - (b) *One (1) member shall be the Commissioner of Agriculture or designee.*
- (2) *The Governor's appointments to the board shall maintain a composition that includes diverse representation from each of the following areas:*
 - (a) *Species of animals served, including food animals, equines, and small animals; and*
 - (b) *All regional areas of the Commonwealth, including eastern Kentucky, western Kentucky, central Kentucky, and northern Kentucky.*
- (3) All appointed members shall be appointed for a term of four (4) years and shall serve until the member is reappointed or a *qualified* successor is appointed. *The terms shall be evenly staggered, so that no more than three (3) members are appointed to full terms in any given calendar year.*
- (4) Any vacancy in the appointed membership of the board shall be filled for the unexpired term by appointment by the Governor.
- (5) Each member of the board shall receive one hundred dollars (\$100) per day for each day *or substantial part of a day* of service actually given in carrying out *the member's*~~[his]~~ duties under this chapter, in addition to *the member's*~~[his]~~ necessary traveling, hotel, and contingent expenses incurred in attending the meetings of the board and in the performance of *the member's*~~[his]~~ duties.

- (6) *A board member may be removed by the Governor, or removed by a three-fourths (3/4) majority vote of the board upon one (1) or more of the following grounds:*
- (a) *A poor attendance record, neglect of duty, or malfeasance in office;*
 - (b) *The refusal or inability for any reason of a board member to perform the duties as a member of the board in an efficient, responsible, and professional manner;*
 - (c) *The misuse of office by a member of the board to obtain financial or material gain or advantage personally or for another through the office;*
 - (d) *A final adjudication by a recognized body, including the courts, that the board member is in violation of the laws governing the practice of veterinary medicine, the practice of veterinary technology, or other board credentialed profession; or*
 - (e) *Other just and reasonable causes as determined solely by the board pursuant to applicable law. In these cases, removal of a member of the board shall be in accordance with KRS Chapters 13A, 13B, and other applicable laws.*

➔SECTION 21. KRS 321.235 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

- (1) *The board shall:*
- (a) *Administer and enforce this chapter and set and evaluate the qualifications of applicants for licensure, certification, permitting, and registration;*
 - (b) *Promulgate administrative regulations in accordance with KRS Chapter 13A to effectively carry out and enforce the provisions of this chapter;*
 - (c) *Promulgate administrative regulations in accordance with KRS Chapter 13A to establish the fee amounts for all fees required by this chapter and the fees for services provided by the board. Fees may not exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of this chapter, including costs related to administration; overhead; staffing; information technology; investigations; inspections; administrative procedures; court costs; supplies; equipment; travel; educational awards; reserve funds for capital, operational, and programmatic expenses; and education and outreach efforts;*
 - (d) *Promulgate a code of conduct governing the practice of veterinary medicine that shall be based upon generally recognized principles of professional conduct; and*
 - (e) *Maintain jurisdiction over persons and premises, regardless of their licensure, certificate, permit, or registration status relative to acts, omissions, complaints, grievances, and investigations which occurred during the licensure, certification, permit, or registration period. The board shall also maintain jurisdiction over registered facilities, irrespective of their registration status, relative to acts, omissions, complaints, grievances, and investigations which occurred during the registration period. This jurisdiction shall be for purposes of enforcement of this chapter and any administrative regulations promulgated under this chapter, including the assessment and collection of fines, costs, and attorneys' fees. Jurisdiction of the board shall also extend to persons engaging in the unauthorized practice of veterinary medicine, unauthorized practice of veterinary technology, unauthorized practice of animal euthanasia, or unauthorized practice of an allied animal health professional on animals. Licensees, certificate holders, permittees, and registrants shall not divest the board of jurisdiction by changing or relinquishing licensure, certificate, permit, or registration status.*
- (2) *The board may:*
- (a) *Issue subpoenas, compel the attendance of witnesses and the production of accounts, books, and records, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating this chapter;*
 - (b) *Promulgate administrative regulations in accordance with KRS Chapter 13A:*
 - 1. *To establish and enforce minimum standards for:*
 - a. *Criteria of programs or other mechanisms to ensure the continuing competence of licensees, certificate holders, permittees, and registrants;*
 - b. *Codes of conduct for its licensees, certificate holders, permittees, and registrants; and*

- c. *The registration of veterinary facilities, mobile facilities, and AAHP facilities;*
- 2. *Regarding the limited scopes of allied animal health professional practices or procedures on animals and the permitting thereof, including:*
 - a. *Minimum requirements;*
 - b. *Examination requirements and passing scores;*
 - c. *Board oversight;*
 - d. *Conditions for application, permitting, renewal, renewal grace periods, and reinstatement;*
 - e. *Limitations on practice; and*
 - f. *Minimum standards; and*
- 3. *To establish:*
 - a. *Specific duties and responsibilities of the board;*
 - b. *Administration of licensure, certification, permitting, or registration;*
 - c. *Standards in veterinary medicine, medical records, and other matters pertaining to veterinarians, veterinary technicians, animal control agencies, animal euthanasia specialists, designated on-site managers, allied animal health professionals, veterinary facilities, AAHP facilities, veterinarian managers, AAHP managers, registered responsible parties, or unlicensed persons; and*
 - d. *A code of conduct for each license, certificate, permit, or registration class issued by the board;*
- (c) *Conduct investigations, inspections, and hearings, and keep records and minutes necessary to carry out the function of this chapter;*
- (d) *Enter and inspect any property or premises for the purpose of investigating either actual or suspected veterinary practices, including practice vehicles and mobile facilities, at any time for the purpose of ascertaining compliance or noncompliance with this chapter, or any administrative regulation that may be promulgated under this chapter, in accordance with protocols established in this chapter and by the board in an administrative regulation;*
- (e) *Evaluate the qualifications for and authorize the issuance of licenses, certificates, permits, and registrations to qualified candidates and premises;*
- (f) *Renew or deny licenses, certificates, permits, and registrations, require continuing education as a condition for renewal, and promulgate administrative regulations regarding the issuance and renewal of retired and inactive licenses, certificates, permits, and registrations;*
- (g) *Limit, reprimand, suspend, or revoke licenses, certificates, permits, and registrations, or impose supervisory or probationary conditions upon licensees, certificate holders, permittees, or registrants, or impose administrative disciplinary fines, issue written reprimands, or any combination thereof;*
- (h) *Issue a notice to comply or a notice of violation to any person for violations of any provision of this chapter or administrative regulations promulgated pursuant to this chapter. A "notice to comply" or "NC" may be issued during the inspection process to request additional information needed to determine compliance or as a notice to correct a minor violation found during the inspection. Failure to take corrective action may lead to the issuance of a "notice of violation" or "NOV." A notice of violation means that a business or person is operating in violation of the law and subject to penalty pursuant to this chapter. Each day or part of a day that the violation continues is a separate violation subject to daily penalties. A notice of violation shall contain:*
 - 1. *A citation to the statutory or regulatory requirement that has been or is being violated;*
 - 2. *A description of the circumstances surrounding the violation, set forth in common and concise language;*
 - 3. *Measures required to correct the violation;*

4. *A reasonable time for correction, if the respondent cannot take measures to correct the violation immediately; and*
5. *Notice of rights of appeal;*
- (i) *Advise, consult, and cooperate with other agencies of the Commonwealth, other states, the federal government, interstate and interlocal agencies, and affected persons, groups, and industries;*
- (j) *Seek injunctive relief in Franklin Circuit Court to stop the unlawful practice of veterinary medicine or practice of veterinary technology by unlicensed persons, or against any person for the enforcement of this chapter or any administrative regulations promulgated pursuant to this chapter;*
- (k) *Appoint from its own membership or staff one (1) or more members or personnel to act as representatives of the board at any meeting within or outside the Commonwealth; and*
- (l) *Implement an educational award program to award scholarships or educational awards as determined by the board, to a person in the act of advancing toward, or having completed a degree in, veterinary medicine or veterinary technology from an approved veterinary medical program or approved veterinary technology program, and may take any other appropriate action to effectuate the Veterinary Medicine Practice Act in accordance with the following:*
 1. *The selected awardee or awardees shall agree to sign an award contract guaranteeing to provide food animal or rural veterinary services or to protect public health in a veterinary resource shortage area identified by the board. Failure of an awardee to comply with the terms of the award contract shall be cause for the board to seek reimbursement of the award;*
 2. *The board shall establish the required members of an educational award review committee through an administrative regulation and may contract with other state agencies, entities, and nonprofit organizations for the endowment, management, and administration of the educational award program. The requirements for the educational awards program, including application requirements, criteria for selecting applicants, criteria for identifying veterinary resource shortage areas, and criteria for prioritizing underserved areas, shall be determined by the board in administrative regulation. However, nothing contained in this section shall be construed as requiring the board to endow or award any scholarship or educational award; and*
 3. *Educational award monies shall be collected as a portion of veterinarian and veterinary technician renewal fees. No more than fifteen percent (15%) of the monies collected during a single veterinarian renewal period may be applied to the educational awards program.*
- (3) *As a part of any board investigation under this section or Section 25 of this Act, the board may require an applicant, credential holder, or any other person engaging in a veterinary practice or activity regulated by the board under this chapter to submit to a criminal background investigation conducted in accordance with Section 7 of this Act.*
- (4) *Members of the board, its agents, and employees shall be immune from personal liability in any action, civil or criminal, which is based upon any official act or acts performed by them in good faith.*

➔Section 22. KRS 321.237 is amended to read as follows:

- (1) The board ~~may~~*shall have the authority to* establish a veterinary wellness committee to undertake the functions and responsibilities of a veterinary wellness program. The functions and responsibilities may include any of the following:
 - (a) Receiving and evaluating reports of suspected impairment *or incapacitation* from any source;
 - (b) *Issuing an order directing an applicant, certificate holder, licensee, designated on-site manager, permittee, registrant, veterinarian manager, or AAHP manager to undergo a mental or physical examination or chemical dependency evaluation, when probable cause exists that the credential holder has engaged in conduct prohibited by this chapter or a statute or administrative regulation enforced by the board. For the purpose of this section, every credential holder is considered to have consented to undergo a mental or physical examination or chemical dependency evaluation when ordered to do so, in writing, by the board and to have waived all objections to the admissibility of the examiner's or evaluator's testimony or reports on the grounds that the testimony or reports constitute a privileged communication;*

- (c) Intervening in cases of verified *or suspected* impairment *or incapacitation*; or
- (d)~~(e)~~ Referring impaired *or incapacitated credential holders, registrants, designated on-site managers, veterinarian managers, AAHP managers, or applicants*~~[veterinarians]~~ to treatment programs *as a requirement of initial or continued licensure, certification, registration, or permitting.*

- (2) Other provisions of law notwithstanding, all board and committee records pertaining to the veterinary wellness program shall be kept confidential. No person in attendance at any meeting of the committee shall be required to testify as to any committee discussions or proceedings.
- (3) Other provisions of law notwithstanding, no member of the board or the veterinary wellness committee shall be liable for damages to any person for any acts, omissions, or recommendations made by the member in good faith while acting within the scope of the member's responsibilities in accordance with this section.

➔Section 23. KRS 321.240 is amended to read as follows:

- (1) The board shall annually elect a chair and a vice chair from the appointed members of the board. *Officers of the board shall serve for terms of one (1) year and until a successor is elected, as long as the officer holds a current appointment to the board.*
- (2) The board shall hold at least two (2) **regular** meetings annually and additional meetings as the board may deem necessary. The additional meetings may be held upon call of the chair or upon written request of three (3) members of the board.
- (3) Five (5) members of the board shall constitute a quorum to conduct business.
- (4)~~(3)~~ The board may employ *its own executive director and staff, or employ* or contract with any other persons it deems necessary to carry on the work of the board and shall define their duties and fix their compensation. *Should the board prefer not to directly employ or contract with persons to serve as its executive director or staff, the board may enter into a contract with another state agency in which the board shall pay to the agency a sum sufficient to offset that agency's costs in the salary and benefits of one (1) or more employees who will be assigned to serve the board as its executive director and staff.*

~~(4) Upon recommendation of the board, the Governor may remove any member of the board for a poor attendance record, neglect of duty, or malfeasance in office.~~

~~(5) The board shall promulgate administrative regulations as it may deem necessary and proper to effectively carry out and enforce the provisions of this chapter, including regulations to establish authorized fees. Fees may not exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of this chapter.~~

~~(6) The board shall promulgate a code of conduct governing the practice of veterinary medicine which shall be based upon generally recognized principles of professional ethical conduct.]~~

➔Section 24. KRS 321.320 is amended to read as follows:

- (1) All fees and other moneys received by the board pursuant to the provisions of this chapter shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board.
- (2) (a) No part of this revolving fund shall revert to the general funds of this Commonwealth.
- (b) *Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.*
- (c) *Any interest earnings of the fund shall become a part of the fund and shall not lapse.*
- (3) *All expenses incurred by the board shall be paid from this revolving fund, including:*
- (a) The compensation of members of the board;
- (b) *Salaries, wages, and benefits*~~[and all]~~ of the employees of the board;
- (c) *Payment of contractors hired by the board;*
- (d) *Administrative services provided to the board;*
- (e) *Investigative and legal services;*
- (f) *Court costs;*
- (g) *Technology expenses related to administration of this chapter; and*

- (h) All *other* expenses incurred by the board ~~[shall be paid from this revolving fund].~~
- (4) *The board shall keep and maintain a reserve fund for capital, operational, and programmatic expenses.*
- (5) *Scholarships and other educational awards approved by the board for the purpose of promoting persons entering into the fields of veterinary medicine shall be paid from this revolving fund.*
- (6) *The board may receive and expend funds, in addition to fees collected from parties other than applicants and credential holders, provided that these funds shall be used in the pursuit of a specific objective that the board may accomplish by this chapter or which the board is qualified to accomplish by reason of its jurisdiction or professional expertise.*
- (7) *The board may direct investment of that portion of its revolving fund not needed to meet current expenses, the earning from which investments shall also be credited to the revolving fund of the board.*
- (8) *The fund shall be held subject to the order of the board, and to be used for meeting necessary expenses incurred in the performance of the purposes of this chapter and the duties imposed thereby.*

➔ Section 25. KRS 321.351 is amended to read as follows:

- (1) The board may refuse to issue a *credential*~~[license]~~, or may suspend, revoke, impose probationary or supervisory conditions upon, impose an administrative fine not to exceed five thousand dollars (\$5,000) per violation, issue a written reprimand, issue a private admonishment, or any combination of actions regarding any *credential holder*~~[licensee]~~ upon proof that the *credential holder*~~[licensee]~~ has:
- (a) Committed any act of dishonesty or corruption, if in accordance with KRS Chapter 335B. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the *credential holder*~~[licensee]~~ or applicant. "Conviction," as used in this paragraph, shall include a finding or verdict of guilt, an admission of guilt, or a plea of nolo contendere;
 - (b) Misrepresented or concealed a material fact in obtaining a *board credential*~~[license]~~, or in reinstatement of a *board credential*~~[license]~~;
 - (c) Committed any unfair, false, misleading, or deceptive act or practice;
 - (d) Been incompetent or negligent in the practice of veterinary medicine, *the practice of veterinary technology, animal euthanasia, allied animal health professional activities, or any associated professional activities*;
 - (e) Violated any~~[state]~~ statute or administrative regulation governing the practice of veterinary medicine, *veterinary technology, animal euthanasia, allied animal health professional activities, or any associated professional activities*~~[or any activities undertaken by a veterinarian]~~;
 - (f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;
 - (g) Violated the code of~~[ethical]~~ conduct as set forth by the board by administrative regulation;~~[or]~~
 - (h) *Become impaired or incapacitated and unable to perform that person's duties with reasonable skill and safety; or*
 - (i) Violated any applicable provision of any federal or state law or regulation regarding the dispensing of controlled *substances, veterinary drugs, veterinary prescription drugs*, or legend drugs, if in accordance with KRS Chapter 335B.
- (2) Five (5) years from the date of a revocation, any person whose *board credential*~~[license]~~ has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the *board credential*~~[license]~~ upon a finding that the individual has complied with any terms prescribed by the board and is again able to competently engage in~~[the]~~ practice~~[of veterinary medicine]~~.
- (3) When in the judgment of the board, an alleged violation is not of a serious nature, and the evidence presented to the board after the investigation and appropriate opportunity for the *credential holder*~~[licensee]~~ to respond, provides a clear indication that the alleged violation did in fact occur, the board may issue a written reprimand to the *credential holder*~~[licensee]~~. A copy of the reprimand shall be placed in the permanent file of the *credential holder*~~[licensee]~~. The *credential holder*~~[licensee]~~ shall have the right to file a response to the reprimand within thirty (30) days of its receipt and to have the response placed in the permanent licensure file. The *credential holder*~~[licensee]~~ may alternatively, within thirty (30) days of the receipt, file a request for

hearing with the board. Upon receipt of this request the board shall set aside the written reprimand and set the matter for hearing.

- (4) At any time during the investigative or hearing processes, the board may enter into an agreed order, **settlement agreement**, or accept an assurance of voluntary compliance with the **credential holder**~~[licensee]~~ which effectively deals with the complaint **or grievance**.
- (5) The board may reconsider, modify, or reverse its probation, **reprimand**, suspensions, or other disciplinary action.
- (6) Private admonishment shall not be subject to disclosure to the public under KRS 61.878 and shall not constitute disciplinary action, but may be used by the board for statistical purposes or in a subsequent disciplinary action against the **credential holder**~~[licensee]~~ or applicant.
- (7) **As a part of any board investigation under this section or Section 21 of this Act, the board may require an applicant, credential holder, or any other person engaging in a veterinary practice or activity regulated by the board under this chapter to submit to a criminal background investigation conducted in accordance with Section 7 of this Act.**
- (8) **For the purposes of this section, "credential holder" means a person who:**
 - (a) **Holds any license, certificate, permit, registration, or other credential issued or approved by the board; or**
 - (b) **Serves as the veterinarian manager, AAHP manager, registered responsible party designated on a facility registration or AAHP facility registration, or as the designated on-site manager for a certified animal control agency.**

➔Section 26. KRS 321.353 is amended to read as follows:

- (1) The board may, by a majority vote, issue an emergency order for the immediate, temporary suspension of a license, **certificate, permit, or registration** against which disciplinary action, an investigation, or initiating complaint is pending if the order is necessary to protect the public.
- (2) The emergency order shall be made in accordance with KRS 13B.125 and shall be based upon a finding by the board that the emergency order is in the public interest and that there is substantial evidence of immediate danger to the health, welfare, and safety of the **credential holder's**~~[licensee's]~~ clients,~~[-or]~~ animals, or the general public.
- (3) A licensee, **certificate holder, permittee, or registrant** may appeal the emergency order by filing a written request to the board for an emergency hearing in accordance with KRS 13B.125 within thirty (30) days after receipt of the order.
- (4) The appeal of an emergency order shall address only the necessity for the action and shall not constitute an appeal of the merits of the underlying complaint or charge.
- (5) The emergency order shall remain in effect until modified or vacated by the board or hearing officer or superseded by final disciplinary action of the board or hearing officer on the underlying complaint or charge.
- (6) The board shall expedite disciplinary hearings in which a licensee, **certificate holder, permittee, or registrant** has been suspended under subsection (1) of this section.
- (7) Any party aggrieved by a final order of the board may appeal to the Franklin Circuit Court after a written decision is issued by the board in accordance with KRS Chapter 13B.

➔Section 27. KRS 321.360 is amended to read as follows:

- (1) Except as provided in **Section 21 of this Act, Section 25 of this Act, and** KRS 321.353, the board, before suspending, revoking, imposing probationary or supervisory conditions upon, imposing an administrative fine, or any combination of actions regarding any license, **certificate, permit, or registration, or regarding any veterinarian manager, AAHP manager, registered responsible party, or designated on-site manager** under the provisions of this chapter, shall set the matter for hearing in accordance with KRS Chapter 13B. After denying an application under the provisions of this chapter, or issuing a written reprimand, the board shall grant a hearing in accordance with KRS Chapter 13B to the denied applicant only upon written request of the applicant made within thirty (30) days of the date of the letter advising of the denial or the reprimand.
- (2) Any party aggrieved by a final order of the board may appeal to Franklin Circuit Court in accordance with KRS Chapter 13B.

➔ Section 28. KRS 321.441 is amended to read as follows:

- (1) The board shall issue a license as a veterinary technician to an applicant who:
 - (a) Is a graduate of an **approved**~~[accredited program of]~~ veterinary technology **program**~~[or its equivalent as approved by the board]~~, with an associate or bachelor's degree related to veterinary technology;
 - (b) Obtains a passing score on an examination as determined by the board to assess the qualifications and fitness of an applicant to engage in the practice;~~[and]~~
 - (c) ***Is a person of good moral character. As one (1) element of good moral character, the board shall require each applicant for licensure to submit a full set of the applicant's fingerprints for the purpose of obtaining criminal records checks, pursuant to applicable law. All good moral character information, including the information obtained through the criminal background checks, shall be relevant to licensure eligibility determinations to the extent permitted by law;***
 - (d) Has met all the requirements of the board as established by administrative regulation of the board; **and**
 - (e) ***Has been approved for licensure by the board.***
- (2) ***For the purpose of this chapter, "veterinary technician," "veterinary technologist," "veterinary nurse," or any other category of veterinary technician defined by the board in administrative regulation shall have the same meaning as "veterinary technician" under this chapter.***
- (3) The board shall promulgate administrative regulations ***for one (1) or more categories of veterinary technicians defining the:***
 - (a) ***Minimum qualifications required;***
 - (b) ***Specific tasks that the licensee may perform under a veterinarian's supervision; and***
 - (c) ***Specific tasks that the licensee shall not perform.***
- (4) ***A veterinary technician shall be prohibited from performing the activities listed in subsection (6) of Section 12 of this Act.***
- (5) ***The practice of veterinary technology by telehealth or other means shall constitute the practice of veterinary technology subject to licensure and enforcement by the board.***
- (6) ***A veterinary technician who performs veterinary technology contrary to this chapter and its associated administrative regulations shall be subject to disciplinary actions in a manner consistent with this chapter applicable to licensed veterinarians***~~[defining the scope of practice of the veterinary technician as well as the delegable duties from a licensed veterinarian].~~
- ~~(7)~~~~(3)~~ Each veterinary technician licensed by the board shall pay an annual fee as prescribed by the board.
- (8) Each veterinary technician licensed by the board shall ***complete***~~[attend]~~ annual continuing education hours ***to renew the license*** as required by the board ***in administrative regulation***~~[to renew the license].~~
- (9) Failure to renew shall result in the ***expiration***~~[termination]~~ of the license~~[. If a hearing is requested upon the rejection of an application, or upon the termination of a license, a hearing shall be conducted in accordance with the KRS 321.360.~~
- ~~(4)~~ ~~The services of a licensed veterinary technician shall be limited to the performance of duties under the direct supervision of a licensed veterinarian, except for the routine administration of drugs, vaccines, parasite control agents, and growth stimulating implants for food animals prescribed by a veterinarian and under the indirect supervision of a veterinarian where a veterinarian-client-patient relationship exists. A licensed veterinary technician shall receive no fee or compensation for services other than salary or compensation paid by the establishment by which the licensed veterinary technician is employed. A licensed veterinary technician shall not participate in the operation of a branch office, clinic, or allied establishment unless a licensed veterinarian is on the premises. A licensed veterinary technician shall not diagnose, prescribe medication or treatment, or perform surgical procedures other than castrating and dehorning of food animals. A licensed veterinary technician may assist a veterinarian in all duties of veterinary medicine and surgery].~~
- ~~(10)~~~~(5)~~ A veterinarian shall utilize the services of a licensed veterinary technician in accordance with the terms and provisions of this chapter ***and its associated administrative regulations.*** Unauthorized utilization of licensed veterinary technicians by veterinarians shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine as described in KRS 321.351.

~~(11)(6)~~ Nothing in this section shall prohibit volunteer health practitioners from providing services under KRS 39A.350 to 39A.366.

(12) *Except as authorized by Section 14 of this Act, no person shall practice as a veterinary technician or perform any of the duties usually performed by a veterinary technician unless the person holds a license to practice as a veterinary technician issued and validly existing under this chapter.*

➔Section 29. KRS 321.443 is amended to read as follows:

(1) A veterinary assistant *shall only work in the Commonwealth in the following circumstances:*

(a) *Under the supervision of a licensed veterinarian where a VCPR exists; or*

(b) *Under the direct supervision of a licensed veterinary technician who is under the supervision of a licensed veterinarian where a VCPR exists*~~[may work only under the direct supervision of a veterinarian except for the routine administration of drugs, vaccines, parasite control agents, and growth stimulating implants for food animals prescribed by a veterinarian and under the indirect supervision of a veterinarian where a veterinarian-client-patient relationship exists].~~

(2) Duties of a veterinary assistant shall exclude diagnosing, prescribing medication or treatment, and performance of surgical procedures other than castrating and dehorning of food animals.

(3) *A veterinary assistant and the veterinary assistant's employer shall not represent the veterinary assistant as a veterinary technician.*

(4) *A veterinary assistant who performs the duties of a veterinary assistant contrary to this chapter or outside the scope defined by the board shall be subject to disciplinary actions in a manner consistent with this chapter applicable to licensed veterinarians.*

(5) A veterinarian shall utilize the service of a veterinary assistant in accordance with the terms and provisions of this chapter *and its associated administrative regulations*. Unauthorized utilization of veterinary assistants shall be considered as aiding and abetting an unlicensed person to practice veterinary medicine as described in KRS 321.351.

➔SECTION 30. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) *The board shall establish the amounts, limits, or ranges for any fines imposed under this chapter through the promulgation of administrative regulations. The board shall fine any person who:*

(a) *Violates or aids in the violation of Section 8, 12, 15, 17, 28, or 29 of this Act for practicing or for performing services without a credential required by the board;*

(b) *Is issued a notice of violation by the board for failure to comply with this chapter or administrative regulations promulgated under this chapter;*

(c) *Exercises or attempts to exercise control over, interferes with, or attempts to influence the professional judgment of a credential holder in any manner, including through coercion, collusion, extortion, inducement, or intimidation;*

(d) 1. *Violates any ruling of the board or hinders any agent of the board in carrying out the duties assigned to the agent;*

2. *Is an officer who refuses to enforce the provisions of this chapter when called upon by the board to do so; or*

3. *Attempts in any way to hinder or obstruct the board in carrying out the provisions of this chapter; or*

(e) *Resists, obstructs, interferes with, threatens, attempts to intimidate, or in any other manner interferes with an agent of the board or who willfully refuses to obey their lawful orders.*

(2) *The board may impose additional fines on a person who is convicted under Section 31 of this Act.*

(3) *Each day or part of a day that a violation continues is a separate violation and subject to daily penalties.*

(4) *For any violation of the Kentucky Veterinary Medicine Practice Act, in addition to any other fines designated in this section, the board may impose on any person fines in an amount equal to the cost of investigative and legal fees incurred by the board in processing the case.*

➔Section 31. KRS 321.990 is amended to read as follows:

- (1) *Any person who violates or aids in the violation of Section 8, 12, 15, 17, 28, or 29 of this Act for practicing or for performing services without a credential required by the board shall be guilty of a misdemeanor upon conviction in court, and shall be sentenced to jail for not less than ten (10) days nor more than ninety (90) days per violation.*
- (2) *Any person exercising or attempting to exercise control over, interfering with, or attempting to influence the professional judgment of a credential holder in any manner, including through coercion, collusion, extortion, inducement, or intimidation, shall be guilty of a misdemeanor upon conviction in court, and shall be sentenced to jail for not less than ten (10) days nor more than ninety (90) days per violation.*
- (3) *Any person who resists, obstructs, interferes with, threatens, attempts to intimidate, or in any other manner interferes with an agent of the board or who willfully refuses to obey their lawful orders shall be guilty of a misdemeanor upon conviction in court, and shall be sentenced to jail for not more than thirty (30) days for each offense.*
- (4) *Each day or part of a day that a violation continues is a separate violation and subject to daily penalties.*
- (5) *Nothing in this section shall limit, preclude, or supersede the board's power to:*
 - (a) *Impose fines for a violation of this chapter or any administrative regulations promulgated under this chapter;*
 - (b) *Deny, restrict, or revoke a license issued under this chapter or administrative regulations promulgated under this chapter; and*
 - (c) *Impose any other form of discipline based on a conviction under this section or as otherwise authorized by this chapter or administrative regulations promulgated under this chapter*~~*Any person who shall violate or aid in the violation of KRS 321.190 shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500), or sentenced to jail for not less than ten (10) nor more than ninety (90) days, or both so fined and imprisoned in the discretion of the jury.*~~

➔Section 32. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Signed by Governor March 24, 2023.

CHAPTER 96

(HB 249)

AN ACT relating to aggravating circumstances.

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

➔Section 1. KRS 532.025 is amended to read as follows:

- (1) (a) Upon conviction of a defendant in cases where the death penalty may be imposed, a hearing shall be conducted. In such hearing, the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas; provided, however, that only such evidence in aggravation as the state has made known to the defendant prior to his *or her* trial shall be admissible. Subject to the Kentucky Rules of Evidence, juvenile court records of adjudications of guilt of a child for an offense that would be a felony if committed by an adult shall be admissible in court at any time the child is tried as an adult, or after the child becomes an adult, at any subsequent criminal trial relating to that same person. Juvenile court records made available pursuant to this section may be used for impeachment purposes during a criminal trial and may be used during the sentencing phase of a criminal trial; however, the fact that a juvenile has been adjudicated delinquent of an offense that would be a felony if the child had been an adult shall not be used in finding the child to be a persistent felony offender based upon that adjudication. Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Release of

any records resulting from the child's prior abuse and neglect under Title IV-E or IV-B of the Federal Social Security Act is also prohibited. The judge shall also hear argument by the defendant or his *or her* counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments, the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment;

- (b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. Such hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.
- (2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, or he *or she* shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:
- (a) Aggravating circumstances:
1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions;
 2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, rape in the first degree, or sodomy in the first degree;
 3. The offender by his *or her* act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one (1) person in a public place by means of a weapon of mass destruction, weapon, or other device which would normally be hazardous to the lives of more than one (1) person;
 4. The offender committed the offense of murder for himself, *herself*, or another, for the purpose of receiving money or any other thing of monetary value, or for other profit;
 5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employee engaged at the time of the act in the performance of his *or her* duties;
 6. The offender's act or acts of killing were intentional and resulted in multiple deaths;
 7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his *or her* duties;~~and~~
 8. The offender murdered the victim when an emergency protective order or a domestic violence order was in effect, or when any other order designed to protect the victim from the offender, such as an order issued as a condition of a bond, conditional release, probation, parole, or pretrial diversion, was in effect; *and*
 9. ***The offender's act of killing was intentional and resulted in the death of a child under twelve (12) years old.***
- (b) Mitigating circumstances:
1. The defendant has no significant history of prior criminal activity;

2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime;
 3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act;
 4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his *or her* conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his *or her* conduct are not sufficient to constitute a defense to the crime;
 5. The defendant was an accomplice in a capital offense committed by another person and his *or her* participation in the capital offense was relatively minor;
 6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime;
 7. At the time of the capital offense, the capacity of the defendant to appreciate the criminality of his *or her* conduct to the requirements of law was impaired as a result of mental illness or an intellectual disability or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his *or her* conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime; and
 8. The youth of the defendant at the time of the crime.
- (3) The instructions as determined by the trial judge to be warranted by the evidence or as required by KRS 532.030(4) shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, or imprisonment for life without benefit of probation or parole, or imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his *or her* sentence, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In nonjury cases, the judge shall make such designation. In all cases unless at least one (1) of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the death penalty, or imprisonment for life without benefit of probation or parole, or the sentence to imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his *or her* sentence, shall not be imposed.

➔Section 2. Subsection (2)(a)9. of Section 1 of this Act may be cited as Kimber's Law.

Signed by Governor March 24, 2023.

CHAPTER 97

(HB 191)

AN ACT relating to vacancies in office.

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

➔Section 1. KRS 67C.103 is amended to read as follows:

- (1) The legislative authority of a consolidated local government, except as otherwise specified in KRS 67C.101 to 67C.137, shall be vested in a consolidated local government council. The members of the council shall be nominated and elected by district. There shall be only one (1) council member elected from each council district.
- (2) There shall be twenty-six (26) council districts. The initial boundaries, population, and numerical designation of the council districts shall be as specified by KRS 67C.135. The population of the council districts shall be as nearly equal as is reasonably possible. Any changes made to alter the boundaries of council districts shall be based on the population of the county as determined by the most recent United States Census or official census estimates as provided by the United States Bureau of the Census.

- (3) Following the official publication of each decennial census by the United States Bureau of the Census for the area embraced by a consolidated local government, the council shall adopt an ordinance, if necessary, to redistrict the council districts. A redistricting ordinance shall provide for the distribution of population among the council districts as nearly equal as is reasonably possible. Every council district shall be compact and contiguous and shall respect existing neighborhood, community, and city boundaries whenever possible.
- (4) The consolidated local government council members shall serve for a term of four (4) years beginning on the first Monday in January following their election, except that the initial election of council members shall be in a manner as to provide for staggered terms for council members. At the initial election of the members of a consolidated local government council, those representing even-numbered districts shall be elected for a two (2) year term. Those representing odd-numbered districts shall be elected for a four (4) year term. Thereafter, all council members shall be elected for four (4) year terms.
- (5) The members of a consolidated local government council shall be nominated and elected from the district in which they reside in partisan elections. After the initial terms of office of the first elected council members, council members shall be elected in the same election years as other local government officials as regulated by the regular election laws of the Commonwealth and as provided in subsection (4) of this section.
- (6) No person shall be eligible to serve as a member of a consolidated local government council unless he or she is at least eighteen (18) years old, a qualified voter, and a resident within the territory of the consolidated local government and the district that he or she seeks to represent for at least one (1) year immediately prior to the person's election. A council member shall continue to reside within the district from which he or she was elected throughout the term of office.
- (7) The presiding officer of a consolidated local government council shall be a president who shall be chosen annually by a majority vote of the entire council from among its members at the first meeting of the council in January. The council president has the right to introduce any resolution or recommend any ordinance and shall be entitled to vote on all matters.
- (8) The consolidated local government council shall upon notice meet within seven (7) days after its members have taken office, and shall thereafter hold at least one (1) regular meeting per month. No newspaper notice shall be required for regular or special meetings of the consolidated local government council. However, notice of all meetings of the council and all meetings of committees of the council shall be held pursuant to KRS 61.805 to 61.850.
- (9) A majority of the members of the consolidated local government council shall constitute a quorum, but a smaller number may adjourn from day to day. The consolidated local government council may enforce the attendance of members by rules or ordinances with appropriate fines. The mayor or two-thirds (2/3) of the entire membership of the council may call a special meeting at any time. Meetings shall be held in such places in the county as are provided by ordinance, and the place of meetings shall not be changed except by an ordinance for which two-thirds (2/3) of the members of the consolidated local government council have voted.
- (10) The council shall determine its own rules and order of business, and keep and provide a public record of its proceedings. The council shall provide for the publication of all ordinances in a composite code of ordinances.
- (11) Council ordinances that prescribe penalties for their violation shall be enforced through the entire area of the consolidated local government unless:
 - (a) Otherwise provided by statute; or
 - (b) The legislative body of any city within the consolidated local government area has adopted an ordinance pertaining to the same subject matter that is the same as or more stringent than the standards set forth in the consolidated local government's ordinance.
- (12) **(a)** In the case of a vacancy on the consolidated local government council by reason of death, resignation, or removal, ***an election shall be held to fill the unexpired term, unless paragraph (c) of this subsection applies***~~the council by majority vote of the membership of the council shall elect a qualified resident of the council district not later than thirty (30) days after the date the vacancy occurs. Should the council fail to elect, by majority vote of the membership of the council, a qualified person to fill the vacancy within thirty (30) days, the mayor of the consolidated local government shall fill the vacancy by appointment of a qualified person for the unexpired term]. ***The county clerk shall be responsible for administering the election. The election shall proceed as follows:***
 1. ***The presiding officer of the council shall declare the position vacant and issue a writ of election within twenty-four (24) hours of the occurrence of the vacancy.***~~

2. *The writ shall be signed by the presiding officer, shall designate the day for holding the election, and shall be delivered to the sheriff.*
 3. *Candidates for the unexpired term shall file petitions of nomination with the county clerk not later than ten (10) days following the declaration of vacancy. The election shall be held sixty (60) days after the declaration of vacancy on the next Tuesday which is not a federal holiday under 5 U.S.C. sec. 6103(a), unless paragraph (b) of this subsection applies. The petition for nomination shall contain the signatures of two (2) registered voters of the council district and shall meet the requirements of KRS 118.315(2).*
 4. *If the candidate is a registered member of a political party, as defined by KRS 118.551, the candidate shall be designated as such on the election ballot. If the candidate is not a registered member of a political party, as defined by KRS 118.551, the candidate shall be designated as "independent" on the election ballot, or may choose to be designated as a member of another political organization on the ballot, if such political organization is indicated on the candidate's petition for nomination.*
 5. *The successful candidate elected to fill an unexpired term in the office of consolidated local government council member shall take office immediately upon certification of the election results and administration of the oath of office.*
- (b) *If the unexpired term will not end on the first Monday in January following the next regular election, and if less than three (3) months intervene before that regular election, the unexpired term shall be filled on the date set for the regular election. Candidates for full terms shall be grouped together, and candidates for unexpired terms shall be grouped together, under appropriate headings, so that the voter may easily distinguish the candidates for full terms from the candidates for unexpired terms.*
 - (c) *If the unexpired term will end on the first Monday in January following the next regular election, and if less than three (3) months intervene before that regular election, the presiding officer of the council shall appoint a qualified person to fill the vacancy and serve the remainder of the term.*
 - (d) *Votes cast pursuant to subsection (3) of Section 3 of this Act shall not be counted for, or assigned to, any candidate in an election to fill a vacancy on the council, even if that candidate is the only designee of a political party or organization nominated in an election to fill a vacancy on the council.*
 - (e) *The order of the names on the ballot for the candidates shall be determined by lot at a public drawing to be held in the office of the county clerk at 4 p.m., standard time, ten (10) days following the declaration of vacancy.*
- (13) All legislative powers of a consolidated local government are vested in the consolidated local government council. The term "legislative power" is to be construed broadly and shall include the power to:
- (a) Enact ordinances, orders, and resolutions, and override a veto of the mayor by a two-thirds (2/3) majority of the membership of the legislative council;
 - (b) Review the budgets of and appropriate money to the consolidated local government;
 - (c) Adopt a budget ordinance;
 - (d) Levy taxes, subject to the limitations of the Constitution and the laws of the Commonwealth of Kentucky;
 - (e) Establish standing and temporary committees; and
 - (f) Make independent audits and investigations concerning the affairs of the consolidated local government and any board or commission that:
 1. Is composed of members who are appointed by the mayor and approved by the legislative council; or
 2. Has a budget that is equal to or greater than one million dollars (\$1,000,000.00), except that this subparagraph shall not apply to any fee officer elected within the consolidated local government.
- (14) (a) The consolidated local government council shall establish a Government Oversight and Audit Committee. This committee shall be:

1. Composed of members from each of the two (2) largest political caucuses in the legislative council;
 2. Appointed by the chairs of their respective caucuses; and
 3. Composed on the basis of the proportion of each of the two (2) caucuses' total membership as compared to the total membership of the legislative council. Any fractional proportions shall be rounded in the favor of the smallest caucus' membership on the committee.
- (b) The committee shall have the power to:
1. Compel testimony and the submission of work papers or documents;
 2. Issue subpoenas to compel any officer, appointee, or former officer or appointee to a board or commission described in subsection (13)(f) of this section or any department or division of the consolidated local government to appear before the committee and to compel the submission to the committee of any work papers or documents pertinent to an independent audit or investigation. Any subpoenas issued or testimony compelled shall be subject to any relevant statutes concerning privacy. Testimony subject to KRS 61.810 shall only be taken in executive session. The right to privacy or the requirement that testimony be taken in executive session may be waived by the person or entity being subpoenaed or compelled to testify;
 3. Petition the appropriate Circuit Court to compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the Circuit Court or a refusal to testify therein, if any officer or appointee fails or refuses to testify or furnish the work papers or documents subpoenaed;
 4. Administer oaths to witnesses appearing before the committee when the committee deems the administration of an oath necessary and advisable as provided by law. This decision to administer oaths shall be taken by a majority vote of the committee of the legislative council; and
 5. Recommend the removal of any appointee to a board or commission described in subsection (13)(f) of this section.
- (c) The legislative council of the consolidated local government shall adopt by resolution any process or procedures deemed necessary for the administration of subpoenas and oaths.
- (d) The legislative council of the consolidated local government may only act to remove an appointee to a board or commission described in subsection (13)(f) of this section upon the recommendation of the Government Oversight and Audit Committee.
- (e) The Government Oversight and Audit Committee shall have the power to issue subpoenas or administer oaths. Except as provided in KRS 65.003(7), the legislative council of the consolidated local government shall not delegate those powers to any other entity or entities not a part of the legislative council of the consolidated local government.
- (15) The consolidated local government council shall be known as the legislative council of/..... County Metro Government, which shall be a combination of the names of the largest city in existence in the county on the date of the adoption of the consolidated local government and the county.
- ➔Section 2. KRS 118.740 is amended to read as follows:
- (1) A copy of a proclamation issued under KRS 118.710 or 118.720, or a writ of election issued under **Section 1 of this Act**, KRS 63.200, 118.730, 120.205, or 120.215 shall be forwarded by mail to the sheriff of each county in the district in which the election is to be held, at least fifty-six (56) days before the election. The sheriff of each county in which an election is to be held shall give notice at least forty-nine (49) days before the day of election. If, from any cause, the sheriff cannot properly act, he **or she** shall immediately hand the writ or proclamation to the person authorized to act in his **or her** place.
 - (2) If a special election is administered under KRS 118.730(2), the notice required by subsection (1) of this section shall include the location of the election.
- ➔Section 3. KRS 117.125 is amended to read as follows:

No voting system or voting equipment shall be approved for use after January 1, 2024, by the State Board of Elections, either upon initial examination or reexamination, and no voting equipment or voting system shall be

purchased after July 14, 2022, unless the system and equipment has been certified under KRS 117.379 and is so constructed that it shall:

- (1) Ensure secrecy to the voter in the act of voting so that no person can see or know for whom any other voter has voted or is voting, except for those voters requiring assistance under KRS 117.255;
- (2) Permit votes to be cast for any candidate entitled to have his or her name printed upon the ballots at any primary, regular election, or special election, and for or against any public question entitled to be placed upon the ballots;
- (3) Except at a primary *or at a special election held under subsection (12) of Section 1 of this Act*, permit a voter to vote for all the candidates of one (1) party or for one (1) or more candidates of every party having candidates entitled to be voted for, or for one (1) or more independent, political organization, or political group candidates;
- (4) Permit a voter to vote for as many persons for an office as the voter is lawfully entitled to vote for, and no more;
- (5) Prevent a voter from voting for more persons for any office than the voter is entitled to vote for, and from voting for the same person, or for or against the same question, more than once;
- (6) Permit a voter to vote for or against any question the voter may have the right to vote on, but no other;
- (7) Provide for a nonpartisan ballot;
- (8) Be capable of being adjusted for use in a primary so that a voter may not vote for any person except those seeking nomination as candidates of the voter's party, as candidates for a nonpartisan office, or as candidates for an office of the Court of Justice;
- (9) Permit each voter to vote for all the candidates for presidential electors of any party by one (1) operation;
- (10) Permit each voter to vote, in any regular or special election, for any person for whom the voter desires to vote whose name does not appear upon the ballot by providing a method of write-in voting;
- (11) Be safe, efficient, and accurate in the conduct of elections, and correctly register and accurately count all votes cast for each person, and for or against each public question;
- (12)
 - (a) Provide each voter an opportunity to verify votes recorded on the permanent paper ballot, either visually or using assistive voting technology, by producing a voter-verified paper audit trail;
 - (b) Provide each voter an opportunity to change votes or correct any error before the voter's ballot is cast and counted; and
 - (c) Provide a voter who spoils his or her ballot another ballot as provided under this chapter;
- (13) Use an individual, discrete, permanent, paper ballot cast by the voter for tabulating purposes;
- (14) Preserve the paper ballot as an official record available for use in any audit or recount;
- (15) Be suitably designed for the purpose used, constructed of a durable material, and safely transportable;
- (16) Be capable of determining whether the voting equipment has been unlocked and operated or adjusted in any manner after once being locked;
- (17) Have a public counter with a register which is visible from the outside of the counter or device that will show at all times during an election how many persons have voted;
- (18) Have a protective cumulative counter indicating the number of votes cast for each person, and the votes cast for or against each public question which cannot be seen, reset, or tampered with without unlocking a covering device by a key or other security apparatus that cannot unlock any other part of the equipment, and which prevents changes to the cumulative counter once the system has been put into operation on the day of any election;
- (19) Provide for the tabulating of votes at the precinct as required under KRS 117.275;
- (20) Provide locks or other security apparatus by which the operation of the voting equipment may be locked before the time for opening the polls and after the time for closing the polls;

- (21) Permit a voter to readily learn the method of operating it, to expeditiously cast a vote for all candidates and on all questions of the voter's choice, and when operated properly, register and record correctly and accurately every vote cast;
- (22) Bear a number or other unique designation that will distinguish it from any other voting equipment or voting system;
- (23) Produce a real-time audit log record for the voting system, and produce a paper record with a manual audit capacity which shall be available as an official record for any recount conducted related to any primary or election in which the system is used;
- (24) Be accessible for individuals with impairments, including nonvisual accessibility for the blind or visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters;
- (25) Prohibit voting equipment that tabulates or aggregates votes used in official results from connecting to any network, including the Internet, or communicating with any device external to the voting system;
- (26) Meet or exceed the standards for a voting system established by the Election Assistance Commission, as amended from time to time, and those approved under KRS 117.379; and
- (27) Meet such other requirements as may be established by the State Board of Elections in administrative regulations promulgated under KRS Chapter 13A to reflect changes in technology to ensure the integrity and security of voting systems.

Signed by Governor March 24, 2023.

CHAPTER 98

(HJR 37)

A JOINT RESOLUTION directing the Energy and Environment Cabinet to adopt revisions to the state air quality implementation plan to remove the reformulated gas requirement for Jefferson County and applicable parts of Oldham and Bullitt Counties.

WHEREAS, pursuant to the federal Clean Air Act as amended, 42 U.S.C. sec. 7401 et seq., the Commonwealth of Kentucky is required to prepare and submit to the United States Environmental Protection Agency (EPA) a state implementation plan and revisions to such plan as appropriate to attain and maintain the National Ambient Air Quality Standards (NAAQS) and protect human health; and

WHEREAS, pursuant to KRS Chapter 224, the Energy and Environment Cabinet (cabinet) is designated as the air pollution control agency of this Commonwealth for all purposes of the Clean Air Act; and

WHEREAS, pursuant to KRS Chapter 77, the Louisville Metro Air Pollution Control District (district) is authorized to control air pollution in Jefferson County; and

WHEREAS, the Kentucky Air Pollution Control Commission granted concurrent jurisdiction to the district on January 26, 1971; and

WHEREAS, the intent of the cabinet and the district is to operate an effective air pollution control program in Jefferson County as authorized under KRS Chapters 77 and 224 through joint implementation of necessary control strategies; and

WHEREAS, Governor Brereton Jones, through a letter dated September 29, 1993, opted into the federal reformulated gasoline requirements effective January 1, 1995; and

WHEREAS, the EPA mandated improved quality in conventional gasoline beginning in 2011; and

WHEREAS, consequently, the environmental benefits of reformulated gasoline compared to conventional gasoline no longer provide as significant of an environmental benefit as in the past; and

WHEREAS, in June, 2022, reformulated gas was estimated to be 45 cents more expensive than conventional gas; and

WHEREAS, the national average price of gasoline is currently at a historic level of \$3.47 per gallon, a figure essentially unchanged from last year that seemingly represents the new normal; and

WHEREAS, House Joint Resolution 8 adopted during the 2020 Regular Session directed the cabinet and the district to determine the environmental benefits, related costs, and potential alternatives to the federal reformulated gasoline requirements currently imposed in Jefferson County and parts of Oldham and Bullitt Counties; and

WHEREAS, the cabinet and the district have undertaken that analysis and are engaged in the development of revisions required by House Joint Resolution 8 to eliminate reliance on reformulated gasoline as a control measure for the state implementation plan for Jefferson County and partial areas of Bullitt and Oldham Counties, and to adopt the air pollution control strategies in the state implementation plan revision that are necessary to satisfy any applicable requirement concerning attainment of NAAQS and reasonable further progress, and any other applicable requirement of Section 110 of the Clean Air Act; and

WHEREAS, the cabinet and the district should be prepared to move forward to seek federal approval for that revision to the state implementation plan once the EPA has approved the pending requests from the cabinet and the district for redesignation of the Jefferson County and partial areas of Bullitt and Oldham Counties as being in attainment for ozone;

NOW, THEREFORE,

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

➔Section 1. The General Assembly calls on the EPA to expeditiously review and approve the pending requests from the cabinet and the district to redesignate Jefferson County and partial areas of Bullitt and Oldham Counties as being in attainment for ozone.

➔Section 2. No later than 60 days after the redesignation of Jefferson County and partial areas of Bullitt and Oldham Counties as being in attainment for ozone, the cabinet and the district shall propose revisions to the applicable state implementation plan to:

(1) Remove the reformulated gas requirement for Jefferson County and the parts of Oldham and Bullitt Counties to which the reformulated gas requirement applies;

(2) If necessary, implement air pollution control strategies other than mobile source gas formulations or additives to achieve equivalent, or greater, emission reductions than those achieved by reformulated gasoline requirements in those areas to which the reformulated gas requirements applied; and

(3) Make any other changes necessary to satisfy any applicable requirement concerning attainment of NAAQS and reasonable further progress, and any other applicable requirement of Section 110 of the Clean Air Act.

➔Section 3. Not later than October 31, 2023, the cabinet and the district shall report to the Interim Joint Committee on Natural Resources and Energy on the status of revisions to the state implementation plan identified under Section 2 of this Resolution.

➔Section 4. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Secretary Rebecca Goodman, Energy and Environment Cabinet, 300 Sower Boulevard, Frankfort, Kentucky 40601.

Signed by Governor March 24, 2023.

CHAPTER 99

(SB 3)

AN ACT relating to the educators' liability insurance and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

- (1) *The Educators Employment Liability Insurance Program is hereby established in the Kentucky Department of Education for the purpose of providing educators employment liability insurance to protect all certified employees of Kentucky public schools from liability for judgments or settlements that are in excess of the coverage provided in Section 2 of this Act.*

- (2) *Not later than July 1, 2024, the department shall contract with an insurance agency, broker, or company to provide excess liability coverage to the coverage required in Section 2 of this Act for an additional amount of not less than one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) aggregate for each certified employee, which shall be inclusive of legal fees. The department shall notify each certified employee that the coverage has been provided.*
- (3) *If the certified educators' association with the largest number of members in the Commonwealth provides greater, more comprehensive coverage than the amounts provided in subsection (2) of this section, then the coverage provided by the program in subsection (2) shall be at least equivalent to that amount.*
- (4) *The purchase of liability insurance under this section shall not constitute a waiver of any immunity or defense the insured may now or in the future assert under state or federal law, regulation, or rule.*
- (5) *The Kentucky Board of Education shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the insurance program under this section.*
- (6) (a) *The educators employment liability insurance program fund is hereby created as a trust and agency account fund in the State Treasury to be administered by the Kentucky Department of Education for the purpose of providing educators' employment liability insurance to certified employees as described in this section.*
- (b) *The fund shall consist of 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 fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the fund.*
- (d) *Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section.*

➔Section 2. KRS 160.105 is amended to read as follows:

The Kentucky Board of Education shall by regulation require each school district to:

- (1) Provide for fire and extended insurance coverage on each building owned by the board which is not surplus to its needs as shown by the approved facilities plan. The requirement for such coverage shall not exceed replacement cost and shall allow for the features of coinsurance and deductibles~~[-]~~; **and**
- (2) *Provide each certified employee of the district with primary liability insurance coverage for an amount of not less than one million dollars (\$1,000,000) for the protection of the employee from liability arising in the course and scope of pursuing the duties of employment.*

Signed by Governor March 24, 2023.

CHAPTER 100

(HB 176)

AN ACT relating to health care workplace safety.

WHEREAS, health care workers provide services in a wide range of settings including medical-surgical hospitals, psychiatric and rehabilitation hospitals, surgery centers, outpatient clinics, immediate care, skilled nursing, at-home nursing, hospice care, community triage, and modified medical detoxification facilities; and

WHEREAS, health care workers are up to 12 times more likely to experience workplace violence than any other profession; and

WHEREAS, health care workers deserve to work in a safe and nonviolent setting; and

WHEREAS, with passage of this Act, the Commonwealth of Kentucky joins 10 other states in requiring hospitals and all other health facilities to create and implement workplace violence prevention programs that establish

information collection and reporting mechanisms for incidents of workplace violence, including threats of violence, actual violence, and any other unsafe act committed against health care workers, occurring in the workplace;

NOW, THEREFORE,

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

- (1) *"Health facility" has the same meaning as in KRS 216B.015;*
- (2) *"Health care worker" means any person, whether licensed or unlicensed, temporarily or permanently employed by, volunteering in, or under contract with a health facility, who has direct contact with a patient of the health facility for purposes of either medical care or emergency response situations potentially involving violence;*
- (3) *"Workplace" means any property that is owned or leased by the health facility at which the official business of the health care worker is conducted;*
- (4) *"Workplace safety" means the process of protecting health care workers' physical well-being from workplace violence; and*
- (5) *"Workplace violence" means any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the workplace.*

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

- (1) *By January 1, 2024, the Cabinet for Health and Family Services shall develop and disperse the following information to health facilities:*
 - (a) *Guidelines for developing a workplace safety assessment;*
 - (b) *Examples of a workplace safety plan; and*
 - (c) *Examples of workplace safety standards specific to preventing workplace violence against health care workers.*
- (2) *Beginning January 1, 2025, the cabinet shall annually audit health facilities for compliance with the provisions of Sections 1 to 5 of this Act.*
- (3) *Notwithstanding any other provision of law to the contrary, the cabinet shall accept that a health facility is in compliance with Sections 1 to 5 of this Act if the health facility:*
 - (a) *Is accredited by the Joint Commission or another nationally recognized accrediting organization with comparable standards and survey processes, that is approved by the United States Centers for Medicare and Medicaid Services;*
 - (b) *Is recognized by the United States Office of the Inspector General as a health facility certified to participate in the Medicare and Medicaid programs by the United States Centers for Medicare and Medicaid Services;*
 - (c) *Is licensed as an assisted living community pursuant to KRS Chapter 194A; or*
 - (d) *Is any provider that accepts payment for services from an individual receiving state supplementation pursuant to KRS 205.245.*
- (4) *The cabinet shall promulgate the necessary administrative regulations to effectuate the provisions of Sections 1 to 5 of this Act.*

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

- (1) (a) *Health facilities shall develop and execute a workplace safety assessment to identify the risk of workplace violence against health care workers.*
- (b) *Health facilities shall create a workplace safety plan to address the risks identified in the workplace safety assessment. Each health facility shall develop the workplace safety plan in a way that affords appropriate representation from all the different types of health care workers operating on the premises.*

- (2) *The workplace safety assessment described in subsection (1)(a) of this section shall outline strategies aimed at addressing security considerations and factors that may contribute to or present the risk of workplace violence, including but not limited to the following:*
- (a) *The physical attributes of the health facility setting, including security systems, alarms, emergency response, and security personnel available;*
 - (b) *Staffing, including staffing patterns, patient classifications, and procedures to mitigate violence against health care workers;*
 - (c) *Job design, equipment, and facilities;*
 - (d) *First aid and emergency procedures;*
 - (e) *The reporting of violent acts;*
 - (f) *Health care worker education and training requirements and implementation strategy;*
 - (g) *Security risks associated with specific units, areas of the health facility with uncontrolled access, late night or early morning shifts, and health care worker security in areas surrounding the health facility such as the parking areas; and*
 - (h) *Intervention procedures for providing assistance to a health care worker directly affected by an incident of workplace violence.*
- (3) *Health facilities shall annually:*
- (a) *Conduct a workplace safety assessment;*
 - (b) *Review the workplace violence incidents from the previous year for patterns that indicate risk; and*
 - (c) *Review the workplace safety plan and make any necessary adjustments.*
- (4) *In developing the workplace safety assessment and safety plan required by subsections (1) to (3) of this section, the health facility shall consider any guidelines on workplace safety standards issued by the cabinet pursuant to Section 2 of this Act.*

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

- (1) *By January 1, 2024, and at least annually thereafter, each health facility shall provide violence prevention training to all health care workers, volunteers, and contracted security personnel.*
- (2) *The training shall occur within ninety (90) days of the health care worker's initial date of hire unless he or she is considered a temporary employee, in which case the training shall occur before the health care worker begins performing his or her duties as an employee.*
- (3) *The method and frequency of training may vary according to the information and strategies identified in the workplace safety plan developed pursuant to Section 3 of this Act.*
- (4) *Trainings may include but are not limited to classes that provide:*
- (a) *Interactive questions and answers;*
 - (b) *Hands-on training;*
 - (c) *Video training;*
 - (d) *Brochures;*
 - (e) *Verbal training; or*
 - (f) *Other verbal or written training deemed appropriate by the workplace safety plan.*
- (5) *Trainings shall address the following topics as appropriate to the particular setting, duties, and responsibilities of the health care worker, volunteer, or contracted security personnel being trained and shall be based upon the hazards identified in the workplace safety assessment:*
- (a) *The health facility's workplace safety plan, including general safety procedures;*
 - (b) *Behavioral predictors of violence;*
 - (c) *The violence escalation cycle;*

- (d) *De-escalation techniques to minimize violent behavior;*
 - (e) *Strategies to prevent physical harm with hands-on practice or role-play;*
 - (f) *Response team processes;*
 - (g) *Proper application of restraints, including both physical and chemical restraints;*
 - (h) *The process to document and report incidents;*
 - (i) *The debrief process for affected employees following violent acts; and*
 - (j) *Resources available to employees for coping with the effects of violence.*
- (6) *Health facilities shall develop and execute a basic protective skills competency test for health care workers, volunteers, and contracted security personnel based on the material provided in the training.*
- (7) *Health facilities shall develop hiring practices that require applicants to demonstrate competency using protective safety skills.*

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

- (1) *Health facilities shall develop an internal reporting system for acts of workplace violence committed against a health care worker, patient, or visitor on the health facility's premises, and shall train health care workers on the proper reporting procedure.*
- (2) *Health facilities shall maintain a record of reported acts of workplace violence committed against a health care worker, patient, or visitor on the health facility's premises. Each record shall be kept for five (5) years following the date the act was reported, during which time the record shall be available for inspection by the cabinet upon request. The report shall include:*
- (a) *The health facility's name and address;*
 - (b) *The date, time, and specific location on the health facility's premises where the reported workplace violence occurred;*
 - (c) *The name, job title, department or ward assignment, and staff identification or Social Security number of the victim;*
 - (d) *A description of the person against whom the act was committed as:*
 - 1. *A patient;*
 - 2. *A visitor;*
 - 3. *A health care worker; or*
 - 4. *Other;*
 - (e) *A description of the person who allegedly committed the violent act as:*
 - 1. *A patient;*
 - 2. *A visitor;*
 - 3. *An employee; or*
 - 4. *Other;*
 - (f) *A description of the type of workplace violence committed as:*
 - 1. *Harassment, verbal abuse, or other threatening and violent behavior with no physical contact or violence;*
 - 2. *Physical violence resulting in mild soreness, surface abrasions, scratches, or small bruises;*
 - 3. *Physical violence resulting in major soreness, cuts, or large bruises;*
 - 4. *Physical violence resulting in severe lacerations, a bone fracture, or a head injury; or*
 - 5. *Physical violence resulting in loss of limb or death;*
 - (g) *An identification of any body part injured;*

- (h) *A description of any weapon used;*
 - (i) *The number of health care workers in the vicinity of the act when it occurred; and*
 - (j) *A description of actions taken by employees of the health facility in response to the act.*
- (3) *Health facilities shall develop a procedure to follow up with victims of the reported acts of workplace violence.*
- (4) *Health facilities shall provide victims of workplace violence with support which may include access to physical and mental health resources.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

It is an unlawful practice for a health facility to discriminate or retaliate against a health care worker who reports a workplace safety violation or an incident of workplace violence.

Signed by Governor March 24, 2023.

CHAPTER 101

(HB 429)

AN ACT relating to lending limits.

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

➔Section 1. KRS 286.3-280 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section:~~;~~
- (a) *Subject to paragraph (b) of this subsection*, no bank or trust company shall permit any person to become indebted to it or ~~to~~ become obligated as guarantor or surety to it in an amount exceeding twenty ~~percent~~~~per cent~~ (20%) of *the bank's or trust company's*~~its~~ capital stock actually paid in and ~~its~~ actual amount of surplus, unless the person pledges, *for any amount that exceeds the twenty percent (20%) limit*,~~with it~~ good collateral security or ~~executes to it~~ a mortgage upon real or personal property, which at the time is of more than the cash value of the indebtedness or obligation *required to be secured under this paragraph* above all other encumbrances;~~but~~
 - (b) *In no event shall* the indebtedness or obligation of any person~~shall not~~ exceed thirty percent (30%) of *a bank's or trust company's*~~the paid in~~ capital *stock actually paid in* and actual *amount of* surplus; ~~and~~~~of the bank or trust company.~~
 - (c) When computing the total *of a bank's or trust company's* capital stock *actually paid in and actual amount of*~~and~~ surplus, *any*~~the~~ negative balance of a bank's *or trust company's* undivided profits account shall be deducted.
- (2) A bank *or trust company may, in lieu of complying with*~~organized as a limited liability company shall not be covered by~~ subsection (1) of this section,~~but shall~~ *elect to* comply with the legal lending limits applicable to national banks, *as* set forth in 12 U.S.C. sec. 84 and 12 C.F.R. *pt. 32*~~sec. 32.4~~, as~~may be~~
- (3) No bank or trust company shall permit any of its directors or executive officers to become indebted to it or become obligated as guarantor or surety to it in an amount ~~that~~~~which~~ exceeds *the amount* that~~which~~ any other person is authorized by this section to become indebted or obligated *to the bank or trust company*.
- (4) In computing the indebtedness of any person:
- (a) The liability of any partnership in which the person acts as a general partner, and any obligation entered into for the benefit of a person, partnership, or association, shall be included in the total liabilities of the person, partnership, or association; and
 - (b) *1.* Any credit exposure arising from a derivative transaction, repurchase agreement, reverse purchase agreement, securities lending transaction, or securities borrowing transaction shall be included.

2. For the purposes of this paragraph, the term "derivative transaction" includes any transaction that is a contract, agreement, swap, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one (1) or more commodities, securities, currencies, interest or other rates, indices, or other assets.
- (5) Except as otherwise provided in this section, the same security, both in kind and amount, shall be required from stockholders as from nonstockholders.
- (6) The discount of bills of exchange drawn against actually existing value, and the purchase or discounting of commercial or business paper actually owned by the person negotiating the paper, shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness or obligation of any person selling or negotiating the paper to a bank.

Signed by Governor March 24, 2023.

CHAPTER 102

(SB 89)

AN ACT relating to the reemployment of retired urban-county government police officers and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section "police officer" has the same meaning as in KRS 15.420.*
- (2) *Subject to the limitations of subsection (7) of this section, the legislative body of the urban-county government may employ, as needed, individuals as police officers under this section who have retired from the Police and Fire Retirement Fund established by KRS 67A.360 to 67A.690.*
- (3) *To be eligible for employment under this section, an individual shall have:*
 - (a) *Participated in the Law Enforcement Foundation Program fund under KRS 15.410 to 15.510;*
 - (b) *Retired on a service retirement annuity under the provisions of KRS 67A.410;*
 - (c) *Been separated from service for a period of not less than thirty (30) days;*
 - (d) *Retired with no administrative charges pending; and*
 - (e) *Retired with no preexisting agreement or arrangement between the individual and the urban-county government prior to the individual's retirement for the individual to return to work for the urban-county government.*
- (4) *Individuals employed under this section shall:*
 - (a)
 1. *Serve for a term not to exceed one (1) year.*
 2. *The one (1) year employment term may be renewed annually at the discretion of the employing urban-county government;*
 - (b) *Receive compensation according to the standard procedures applicable to the employing urban-county government; and*
 - (c) *Be employed based upon need as determined by the employing urban-county government.*
- (5) *Individuals employed under this section:*
 - (a) *Shall continue to receive all retirement and health insurance benefits to which they were entitled under the provisions of KRS 67A.345 and KRS 67A.360 to 67A.690;*
 - (b)
 1. *Shall be subject to any merit system, civil service, or other legislative due process provisions applicable to the employing urban-county government.*

2. *A decision not to renew a one (1) year appointment term under this section shall not be considered a retaliatory action, disciplinary action, or deprivation subject to due process; and*
- (c) *Shall not be eligible to receive additional health insurance coverage through the employing urban-county government beyond the health insurance benefits prescribed for retirees in KRS 67A.345.*
- (6) *The employing urban-county government shall not make any employment retirement contributions for retired police officers employed pursuant to this section to any government pension plan authorized under KRS Chapter 67A.*
- (7) *The number of retirees hired by an urban-county government under this section shall not exceed the greater of:*
- (a) *Twenty-five (25) police officers; or*
- (b) *A number equal to ten percent (10%) of the police officers employed by the urban-county government in the immediately preceding calendar year.*

➔Section 2. Whereas reemploying retired police officers is imperative to maintaining order and safety in the Lexington, Fayette area, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 24, 2023.

CHAPTER 103

(HB 380)

AN ACT relating to the certification of peace officers.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person who is at least twenty (20) years of age shall be eligible to be employed by a law enforcement agency for the purpose of attending a basic training course as defined in KRS 15.310 if he or she will be twenty-one (21) years of age at the time of becoming certified under KRS 15.380 to 15.404.*
- (2) *The Kentucky Law Enforcement Council shall allow a person employed under subsection (1) of this section to attend a basic training course as defined in KRS 15.310 if the person will be twenty-one (21) years of age by the conclusion of the basic training course.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 67C IS CREATED TO READ AS FOLLOWS:

- (1) *Any person who is at least twenty (20) years of age shall be eligible to be employed by a consolidated local government police force for the purpose of attending a basic training course as defined in KRS 15.310 if he or she will be twenty-one (21) years of age at the time of becoming certified under KRS 15.380 to 15.404.*
- (2) *The Kentucky Law Enforcement Council shall allow a person employed under subsection (1) of this section to attend a basic training course as defined in KRS 15.310 if the person will be twenty-one (21) years of age by the conclusion of the basic training course.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person who is at least twenty (20) years of age shall be eligible to be employed by an urban-county government police force for the purpose of attending a basic training course as defined in KRS 15.310 if he or she will be twenty-one (21) years of age at the time of becoming certified under KRS 15.380 to 15.404.*
- (2) *The Kentucky Law Enforcement Council shall allow a person employed under subsection (1) of this section to attend a basic training course as defined in KRS 15.310 if the person will be twenty-one (21) years of age by the conclusion of the basic training course.*

➔Section 4. KRS 15.386 is amended to read as follows:

The following certification categories shall exist:

- (1) "Precertification status" means that the officer is currently employed or appointed by an agency and:
 - (a) Meets or exceeds all those minimum qualifications set forth in KRS 15.382, but has not successfully completed a basic training course, except those peace officers covered by KRS 15.400. Upon the council's verification that the minimum qualifications have been met **and approval from the employing agency**, the officer shall have full peace officer powers as authorized under the statute under which he or she was appointed or employed. If an officer fails to successfully complete a basic training course within one (1) year of employment, his or her enforcement powers shall automatically terminate, unless that officer is actively enrolled and participating in a basic training course or, after having begun a basic training course, is on an approved extension of time due to injury or extenuating circumstances; **or**
 - (b) **Does not meet the minimum qualifications set forth in KRS 15.382 because the officer has yet to attain twenty-one (21) years of age. This precertification status is for the purpose of attending a basic training course only;**
- (2) "Certification status" means that:
 - (a) Unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have full peace officer powers as authorized under the statute under which he or she was appointed or employed; **or**
 - (b) **For those officers that were employed at twenty (20) years of age and were precertified for the purpose of attending a basic training course, upon the council's verification that all minimum qualifications have been met, successful completion of a basic training course, and approval from the employing agency, the officer shall have full peace officer powers as authorized by the statute under which he or she was appointed or employed;**
- (3) (a) "Inactive status" means that unless the certification is in revoked status:
 1. The person has been separated on or after December 1, 1998, from the agency by which he or she was employed or appointed and has no peace officer powers; **or**
 2. The person is on military active duty for a period exceeding three hundred sixty-five (365) days.
- (b) The person may remain on inactive status. A person who is on inactive status and who returns to a peace officer position shall have certification status restored if he or she meets the requirements of KRS 15.400(1) or (2) or has successfully completed a basic training course approved and recognized by the council, has not committed an act for which his or her certified status may be revoked pursuant to KRS 15.391 and successfully completes in-service training as prescribed by the council, as follows:
 1. If the person has been on inactive status for a period of less than three (3) years, and the person was not in training deficiency status at the time of separation, he or she shall complete:
 - a. The twenty-four (24) hour legal update Penal Code course;
 - b. The sixteen (16) hour legal update constitutional procedure course; and
 - c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status; **or**
 2. If the person has been on inactive status for a period of three (3) years or more, or the person was in training deficiency status at the time of separation, he or she shall complete:
 - a. The twenty-four (24) hour legal update Penal Code course;
 - b. The sixteen (16) hour legal update constitutional procedure course;
 - c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status; **and**
 - d. One (1) of the following forty (40) hour courses which is most appropriate for the officer's duty assignment:
 - i. Basic officer skills;
 - ii. Orientation for new police chiefs; **or**
 - iii. Mandatory duties of the sheriff.

- (c) A person returning from inactive to active certification after June 26, 2007, under KRS 15.380 to 15.404, shall meet the following minimum qualifications:
1. Be a citizen of the United States;
 2. Possess a valid license to operate a motor vehicle;
 3. Be fingerprinted for a criminal background check;
 4. Not have been convicted of any felony; a misdemeanor under KRS 510.120, 510.130, or 510.140; a second or subsequent offense under KRS 510.148; or a criminal attempt, conspiracy, facilitation, or solicitation to commit any degree of rape, sodomy, sexual abuse, or sexual misconduct;
 5. Not be prohibited by federal or state law from possessing a firearm;
 6. Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;
 7. Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions, if having served in any branch of the Armed Forces of the United States;
 8. Have been interviewed by the employing agency; and
 9. Not have had certification as a peace officer permanently revoked in another state;
- (4) "Training deficiency status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has failed to meet all in-service training requirements. The officer's enforcement powers shall automatically terminate, and he or she shall not exercise peace officer powers in the Commonwealth until he or she has corrected the in-service training deficiency;
- (5) "Revoked status" means that the officer has no enforcement powers and his or her certification has been revoked by the Kentucky Law Enforcement Council under KRS 15.391; and
- (6) "Denied status" means that a person does not meet the requirements to achieve precertification status or certification status.

The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified peace officer.

Signed by Governor March 24, 2023.

CHAPTER 104

(HB 540)

AN ACT relating to school safety.

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

➔Section 1. KRS 158.4414 is amended to read as follows:

- (1) Local boards of education, school district superintendents, administrators of state-controlled facilities, and local and state law enforcement agencies shall cooperate to assign, by August 1, 2022, one (1) or more certified school resource officers to serve each campus where one (1) or more school buildings are used to deliver instruction to students on a continuous basis.
- (2) Local boards of education shall ensure, for each campus in the district, that at least one (1) certified school resource officer is assigned to and working on-site full-time in the school building or buildings on the campus. If sufficient funds and qualified personnel are not available for this purpose for every campus, the local board of education shall fulfill the requirements of this subsection on a per campus basis, as approved in writing by the state school security marshal, until a certified school resource officer is assigned to and working on-site full-time on each campus in the district.

- (3) Local boards of education utilizing a school resource officer employed by a law enforcement agency or the Department of Kentucky State Police shall enter into a memorandum of understanding with the law enforcement agency or the Department of Kentucky State Police that specifically states the purpose of the school resource officer program and clearly defines the roles and expectations of each party involved in the program. The memorandum shall provide that the school resource officer shall not be responsible for school discipline matters that are the responsibility of school administrators or school employees.
- (4) Local boards of education utilizing a school resource officer employed directly by the local board of education shall adopt policies and procedures that specifically state the purpose of the school resource officer program and clearly define the roles and expectations of school resource officers and other school employees.
- (5) In accordance with KRS 61.926, 527.020, and 527.070, as applicable, each school resource officer shall be armed with a firearm, notwithstanding any provision of local board policy, local school council policy, or memorandum of agreement.
- (6) On or before January 1, 2020, the Kentucky Law Enforcement Council, in collaboration with the Center for School Safety, shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish three (3) levels of training for certification of school resource officers first employed as a school resource officer on or after March 11, 2019: School Resource Officer Training I (SRO I), School Resource Officer Training II (SRO II), and School Resource Officer Training III (SRO III). Each level shall consist of forty (40) hours of training, with SRO I to be completed within one (1) year of the date of the officer's employment and SRO II and SRO III within the subsequent two (2) years.
- (7) Course curriculum for school resource officers employed on or after March 11, 2019, shall include but not be limited to:
 - (a) Foundations of school-based law enforcement;
 - (b) Threat assessment and response;
 - (c) Youth drug use and abuse;
 - (d) Social media and cyber security;
 - (e) School resource officers as teachers and mentors;
 - (f) Youth mental health awareness;
 - (g) Diversity and bias awareness training;
 - (h) Trauma-informed action;
 - (i) Understanding students with special needs; and
 - (j) De-escalation strategies.
- (8) Effective January 1, 2020, all school resource officers with active school resource officer certification status shall successfully complete forty (40) hours of annual in-service training that has been certified or recognized by the Kentucky Law Enforcement Council for school resource officers.
- (9) In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing the in-service training within one (1) year, the commissioner of the Department of Criminal Justice Training or a designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days, in which to complete the training.
- (10) Any school resource officer who fails to successfully complete training requirements within the specified time periods, including any approved time extensions, shall lose his or her school resource officer certification and shall no longer serve in the capacity of a school resource officer in a school.
- (11) When a school resource officer is deficient in required training, the commissioner of the Department of Criminal Justice Training or his or her designee shall notify the council, which shall notify the officer and the officer's employing agency.
- (12) A school resource officer who has lost school resource officer certification due solely to the officer's failure to meet the training requirements of this section may regain certification status as a school resource officer and may resume service in the capacity of a school resource officer in a school setting upon successful completion of the training deficiency.

- (13) No later than November 1 of each year, the local school district superintendent shall report to the Center for School Safety the number and placement of school resource officers in the district. The report shall include the source of funding and method of employment for each position.
- (14) Nothing in this section shall be interpreted or construed to require a local government or any of its agencies or offices to fund the school resource officer positions required of local boards of education under this section. For purposes of this subsection, "local government" has the same meaning as in KRS 65.8840.
- (15) *Nothing in this section shall prevent a private or parochial school from entering into a memorandum of understanding with a local law enforcement agency or the Department of Kentucky State Police to provide school resource officers employed by the local law enforcement agency or the Department of Kentucky State Police.*

Signed by Governor March 24, 2023.

CHAPTER 105

(HB 3)

AN ACT relating to juvenile justice and making an appropriation therefor.

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

➔Section 1. KRS 610.030 is amended to read as follows:

Except as otherwise provided in KRS Chapters 600 to 645:

- (1) If any person files a complaint alleging that a child, except a child alleged to be neglected, abused, dependent, or mentally ill who is subject to the jurisdiction of the court, may be within the purview of KRS Chapters 600 to 645, the court-designated worker shall make a preliminary determination as to whether the complaint is complete. In any case where the court-designated worker finds that the complaint is incomplete, the court-designated worker shall return the complaint without delay to the person or agency originating the complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction of the offense, and request additional information in order to complete the complaint. The complainant shall promptly furnish the additional information requested;
- (2)
 - (a) Upon receipt of a complaint which appears to be complete and which alleges that a child has committed a public offense, the court-designated worker shall refer the complaint to the county attorney for review pursuant to KRS 635.010.
 - (b) If after review the county attorney elects to proceed, the court-designated worker shall conduct a preliminary intake inquiry to recommend whether the interests of the child or the public require that further action be taken or whether, in the interest of justice, the complaint can be resolved informally without the filing of a petition;
- (3) Upon receipt of a complaint that appears to be complete and that alleges that the child has committed a status offense, the court-designated worker shall conduct a preliminary intake inquiry to determine whether the interests of the child or the public require that further action be taken;
- (4) Prior to conducting a preliminary intake inquiry, the court-designated worker shall notify the child and the child's parent, guardian, or other person exercising custodial control or supervision of the child in writing:
 - (a) Of their opportunity to be present at the preliminary intake inquiry;
 - (b) That they may have counsel present during the preliminary intake inquiry as well as the formal conference thereafter;
 - (c)
 1. That all information supplied by the child to a court-designated worker during any process prior to the filing of the petition shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the child.

2. Information may be shared between treatment providers, the court-designated worker, and the family accountability, intervention, and response team to enable the court-designated worker to facilitate services and facilitate compliance with the diversion agreement; and
 - (d) That the child has the right to deny the allegation and demand a formal court hearing;
- (5) The preliminary intake inquiry shall include the administration of an evidence-based screening tool and, if appropriate and available, a validated risk and needs assessment, in order to identify whether the child and his or her family are in need of services and the level of intervention needed;
- (6) Upon the completion of the preliminary intake inquiry, the court-designated worker may:
 - (a) If the complaint alleges a status offense, determine that no further action be taken subject to review by the family accountability, intervention, and response team;
 - (b) If the complaint alleges a public offense, refer the complaint to the county attorney;
 - (c) Refer a public offense complaint for informal adjustment; or
 - (d) Based upon the results of the preliminary intake inquiry, other information obtained, and a determination that the interests of the child and the public would be better served, and with the written approval of the county attorney for a public offense complaint, if necessary, conduct a formal conference and enter into a diversion agreement;
- (7) Upon receiving written approval of the county attorney, if necessary, to divert a public offense complaint, and prior to conducting a formal conference, the court-designated worker shall advise in writing the complainant, the victim if any, and the law enforcement agency having investigative jurisdiction of the offense:
 - (a) Of the recommendation and the reasons therefor and that the complainant, victim, or law enforcement agency may submit within ten (10) days from receipt of such notice a complaint to the county attorney for special review; or
 - (b) In the case of a misdemeanor diverted pursuant to KRS 635.010(4), of the fact that the child was statutorily entitled to divert the case;
- (8) A formal conference shall include the child and his or her parent, guardian, or other person exercising custodial control or supervision. The formal conference shall be used to:
 - (a) Present information obtained at the preliminary intake inquiry; and
 - (b) *1.* Develop a diversion agreement that shall require that the child regularly attend school, shall not exceed six (6) months in duration, and may include:
 - a.*~~[1.]~~ Referral of the child, and family if appropriate, to a public or private entity or person for the provision of identified services to address the complaint or assessed needs;
 - b.*~~[2.]~~ Referral of the child, and family if appropriate, to a community service program within the limitations provided under KRS 635.080(2);
 - c.*~~[3.]~~ Restitution, limited to the actual pecuniary loss suffered by the victim, if the child has the means or ability to make restitution;
 - d.*~~[4.]~~ Notification that the court-designated worker may apply graduated sanctions for failure to comply with the diversion agreement;
 - e.*~~[5.]~~ Any other program or effort which reasonably benefits the community and the child; and
 - f.*~~[6.]~~ A plan for monitoring the child's progress and completion of the agreement.~~[7.]~~
 - 2. Prior to developing the diversion agreement, the court designated worker or court designated specialist shall contact the school district that the child attends to obtain background information from school personnel regarding family background, education records, any services previously provided, and any recommended trauma informed strategies.*
 - 3. Upon developing a diversion agreement, the court designated specialist shall make all details of the agreement accessible to all members of the family, accountability, intervention, and response team through an electronic platform provided by the Administrative Office of the Courts.*

- (9) (a) If a child successfully completes a diversion agreement, the underlying complaint shall be dismissed and further action related to that complaint shall be prohibited.
- (b) If a child fails to appear for a preliminary intake inquiry, declines to enter into a diversion agreement, or fails to complete a diversion agreement, then:
1. For a public offense complaint, the matter shall be referred to the county attorney for formal court action and, if a petition is filed, the child may request that the court dismiss the complaint based upon his or her substantial compliance with the terms of diversion; and
 2. For a status offense complaint, the court-designated worker shall refer the matter to the family accountability, intervention, and response team for review and further action.
- (c) *If the child enters into a diversion agreement or is referred to the family accountability, intervention, and response team for truancy and there is no action implemented by the family accountability, intervention, and response team within ninety (90) days, the family accountability, intervention, and response team shall report to the court the reasons for inaction and shall provide a plan for action on the child's case. The court shall review on the record any diversion agreement and any report, without the attendance or appearance of the child, at regular intervals at the court's discretion to verify family accountability, intervention, and response team member attendance, team accountability, and performance.*
- (d) *If a child fails to appear for a preliminary intake inquiry or fails to complete a diversion agreement due to lack of parental cooperation, the court-designated worker shall make a determination that the child failed to complete the diversion due to lack of parent cooperation;*
- (10) If a complaint is referred to the court, the complaint and findings of the court-designated worker's preliminary intake inquiry shall be submitted to the court for the court to determine whether process should issue;
- (11) *If the court receives a report with a determination that the diversion is failed due to lack of parental cooperation, the court may order parental cooperation and refer the case back to the court-designated worker. The child shall not be detained upon this finding;* and
- (12)~~(11)~~ At any stage in the proceedings described in this section, the court or the county attorney may review any decision of the court-designated worker. The court upon its own motion or upon written request of the county attorney may refer any complaint for a formal hearing.

➔Section 2. KRS 605.035 is amended to read as follows:

- (1) There is hereby created in each judicial district a family accountability, intervention, and response team that shall develop enhanced case management plans and opportunities for services for children referred to the team. The family accountability, intervention, and response team shall consist of not more than fifteen (15) persons.
- (2) The membership of the team shall include the following representatives as appointed by their agencies or organizations:
 - (a) A court-designated worker in that judicial circuit or district;
 - (b) One (1) or more members, one (1) of whom shall be a representative of the community mental health center, of the regional interagency council specified in KRS 200.509(1)(a) to (d) and (g), or corresponding members of the local interagency council if one exists;
 - (c) A representative from the cabinet knowledgeable about services available through the cabinet and authorized to facilitate access to services;
 - (d) A representative from the office of a county attorney within the judicial district;
 - (e) A representative from the Department of Public Advocacy;
 - (f) A representative from a local public school within the judicial district;
 - (g) A representative of law enforcement; and
 - (h) Other persons interested in juvenile justice issues, as identified by the family accountability, intervention, and response team, who are necessary for a complete representation of resources within each judicial circuit or district.
- (3) A court-designated worker from within the judicial circuit or district shall lead the team and be responsible for convening and staffing the team.

- (4) The team shall adopt a case management approach and process for reviewing:
- (a) Referrals from the court-designated worker involving cases in which a child has failed to appear for a preliminary intake inquiry, declined to enter into a diversion agreement, or failed to complete the terms of the agreement; and
 - (b) Status offense cases if the court-designated worker, after reviewing the complaint, has determined that no further action is necessary.
- (5) After reviewing the actions taken by the court-designated worker, including referrals made for the child and his or her family, efforts to address barriers to successful completion, and whether other appropriate services are available to address the needs of the child and his or her family, the team may:
- (a) Refer the case back to the court-designated worker to take further action as recommended by the team;
 - (b) **Refer the case to the cabinet, which shall conduct an investigation of suspected dependency, neglect, or abuse;** or
 - (c)~~(b)~~ Advise the court-designated worker to refer the case to the county attorney if the team has no further recommendations to offer.

➔Section 3. KRS 610.990 is amended to read as follows:

Any person who intentionally violates any of the provisions of this chapter shall be guilty of a Class B misdemeanor, **except that an intentional violation of an order issued under subsection (11) of Section 1 of this Act shall be referred to the county attorney for prosecution under KRS 530.070(1)(c) if the case relates to truancy.**

➔Section 4. KRS 610.265 is amended to read as follows:

- (1) Any child who is alleged to be a status offender or who is accused of being in contempt of court on an underlying finding that the child is a status offender may be detained in a nonsecure facility or a secure juvenile detention facility for a period of time not to exceed twenty-four (24) hours, exclusive of weekends and holidays, pending a detention hearing. Any child who is accused of committing a public offense or of being in contempt of court on an underlying public offense may be detained in a secure juvenile detention facility or a nonsecure setting approved by the Department of Juvenile Justice for a period of time not to exceed forty-eight (48) hours, exclusive of weekends and holidays, pending a detention hearing.
- (2) **Beginning July 1, 2024, any child accused of committing a public offense that would be considered a violent felony offense as defined in KRS 532.200 shall be detained in a secure juvenile detention facility for a period of time not to exceed forty-eight (48) hours, exclusive of weekends and holidays, pending a detention hearing, unless the detention hearing can be held within the time allotted to peace officers to retain custody of the child pursuant to KRS 610.200 or 610.220. This subsection shall not apply to any child ten (10) years of age or younger.**
- (3) (a) **Any child detained pursuant to subsection (2) of this section shall be assessed by a mental health professional, whose communications with the child shall be confidential in conformity with the Kentucky Rules of Evidence, to determine if the child exhibits behavior that indicates the child could benefit from cognitive behavioral therapy, other evidence-based behavioral health programs, substance use disorder treatment, or treatment in a psychiatric facility for serious mental illness.**
- (b) **Any treatment recommended under this subsection shall be provided by the Department of Juvenile Justice and may be provided pursuant to a contract between the Justice and Public Safety Cabinet and a behavioral health services organization.**
- (c) **If the child is released upon a detention hearing, a court may order the child to complete any recommended treatment. The Department of Juvenile Justice shall refer the child to an existing contractor or to other resources for the treatment.**
- (4) **Any child detained pursuant to subsection (2) of this section shall be permitted visitation from individuals representing organizations including nonprofit organizations, faith-based organizations, or community organizations, to connect them with, expose them to, or minister to them through programs including but not limited to trades, arts, sports, mentoring, counseling, support programs, or community-based programs. These organizations may offer transition services to any child who is released from detention.**
- (5)~~(2)~~ Within the period of detention described in ~~subsections~~~~[subsection]~~ (1) **and** (2) of this section, exclusive of weekends and holidays, a detention hearing shall be held by the judge or trial commissioner of the court for the purpose of determining whether the child shall be further detained. At the hearing held pursuant

to this subsection, the court shall consider the nature of the offense, the child's background and history, and other information relevant to the child's conduct or condition.

- ~~(6)~~~~(3)~~ If the court orders a child detained further, that detention shall be served as follows:
- (a) If the child is charged with a capital offense, Class A felony, or Class B felony, detention shall occur in a secure juvenile detention facility pending the child's next court appearance subject to the court's review of the detention order prior to that court appearance;
 - (b) Except as provided in KRS 630.080(2), if it is alleged that the child is a status offender, the child may be detained in a secure juvenile detention facility for a period not to exceed twenty-four (24) hours after which detention shall occur in a nonsecure setting approved by the Department of Juvenile Justice pending the child's next court appearance subject to the court's review of the detention order prior to the next court appearance;
 - (c) If a status offender or a child alleged to be a status offender is charged with violating a valid court order, the child may be detained in a secure juvenile detention facility, or in a nonsecure setting approved by the Department of Juvenile Justice, for a period not to exceed forty-eight (48) hours, exclusive of weekends and holidays, pending the child's next court appearance;
 - (d) Prior to ordering a status offender or alleged status offender who is subject to a valid court order securely detained because the child violated the valid court order, the court shall:
 1. Affirm that the requirements for a valid court order were met at the time the original order was issued;
 2. Make a determination during the adjudicatory hearing that the child violated the valid court order; and
 3. Within forty-eight (48) hours after the adjudicatory hearing on the violation of a valid court order by the child, exclusive of weekends and holidays, receive and review a written report prepared by an appropriate public agency that reviews the behavior of the child and the circumstances under which the child was brought before the court, determines the reasons for the child's behavior, and determines whether all dispositions other than secure detention have been exhausted or are inappropriate. If a prior written report is included in the child's file, that report shall not be used to satisfy this requirement. The child may be securely detained for a period not to exceed forty-eight (48) hours, exclusive of weekends and holidays, pending receipt and review of the report by the court. The hearing shall be conducted in accordance with ~~the provisions of~~ KRS 610.060. The findings required by this subsection shall be included in any order issued by the court which results in the secure or nonsecure detention of a status offender; and
 - (e) If the child is charged with a public offense, or contempt on a public offense, and the county in which the case is before the court is served by a state operated secure detention facility under the statewide detention plan, the child shall be referred to the Department of Juvenile Justice for a security assessment and placement in an approved detention facility or program pending the child's next court appearance.
- ~~(7)~~~~(4)~~ If, at the hearing conducted under subsection ~~(5)~~~~(2)~~ of this section, the court conducts an adjudicatory hearing on the merits of a violation of a valid court order, that hearing shall conform to the requirements of KRS 630.080.
- ~~(8)~~~~(5)~~ If the detention hearing is not held as provided in subsection (1) of this section, the child shall be released as provided in KRS 610.290.
- ~~(9)~~~~(6)~~ If the child is not released, the court-designated worker shall notify the parent, person exercising custodial control or supervision, a relative, guardian, or other responsible adult, and the Department of Juvenile Justice or the cabinet, as appropriate.

➔Section 5. KRS 635.060 is amended to read as follows:

If in its decree the juvenile court finds that the child comes within the purview of this chapter, the court, at the dispositional hearing, may impose any combination of the following, except that the court shall, if a validated risk and needs assessment tool is available, consider the validated risk and needs assessment submitted to the court and parties by the Department of Juvenile Justice or other agency before imposing any disposition:

- (1) Order the child or his parents, guardian, or person exercising custodial control to make restitution or reparation to any injured person to the extent, in the sum and upon the conditions as the court determines. However, no

parent, guardian, or person exercising custodial control shall be ordered to make restitution or reparation unless the court has provided notice of the hearing, provided opportunity to be heard, and made a finding that the person's failure to exercise reasonable control or supervision was a substantial factor in the child's delinquency;

- (2) (a) Place the child:
 1. Under parental supervision in the child's own home or in a suitable home or boarding home, upon the conditions that the court shall determine, or
 2. On probation under conditions that the court shall determine.
- (b)
 1. At the time the child is placed on probation, the court shall explain to the child the sanctions which may be imposed if the court's conditions are violated, and shall include notice of those sanctions as part of its written order of probation. A child placed on probation shall be subject to the visitation and supervision of a probation officer or an employee of the Department of Juvenile Justice.
 2. The conditions of probation shall include authorization for the use of graduated sanctions prior to a court review for the imposition of a term of detention. If the court has previously imposed graduated sanctions for a violation of conditions of supervision by a child monitored by the court, or makes a finding that the graduated sanctions have previously been imposed for a child on probation, then the court may impose a sanction of up to thirty (30) days' detention for a violation of the conditions of supervision or probation. A court may not impose detention prior to use of graduated sanctions unless there is clear and convincing evidence that there are no graduated sanctions available that are appropriate for the child and the child is an immediate threat to himself or others. Except where commitment has been probated pursuant to subsection (5) of this section, a child may not be committed or recommitted to the Department of Juvenile Justice for a violation of a condition of probation.
- (c) A child placed on probation or supervision with court monitoring shall remain subject to the jurisdiction of the court as follows, except that if a person is placed on probation after the person reaches the age of seventeen (17) years and six (6) months, the probation shall be for a period not to exceed one (1) year:
 1. If the child was adjudicated for an offense that would be a violation if committed by an adult, the period of probation or supervision shall not exceed thirty (30) days, except that the court may order up to three (3) months of supervision if the court-ordered treatment includes a program that requires longer than thirty (30) days to complete;
 2. If the child was adjudicated for an offense that would be a misdemeanor if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS 635.510 or an offense involving a deadly weapon, the period of probation or supervision shall not exceed six (6) months, except that the court may order up to twelve (12) months of supervision if the court-ordered substance abuse or mental health treatment includes a program that requires longer than six (6) months to complete;
 3. If the child was adjudicated for an offense that would be a Class D felony if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS 635.510 or an offense involving a deadly weapon, the period of probation or supervision shall not exceed twelve (12) months; or
 4. If the child was adjudicated for an offense that would be a felony offense if committed by an adult, other than a Class D felony offense, or for an offense involving a deadly weapon, or for an offense in which the child has not been declared a sexual offender pursuant to KRS 635.510, the child may be placed on probation up to age eighteen (18);
- (3) (a) If the child was adjudicated for an offense other than an offense that would be a violation if committed by an adult, order the child confined in an approved secure detention facility or detention program, as authorized by KRS Chapter 15A, as follows:
 1. If the child is fourteen (14) years of age but less than sixteen (16) years of age, the child may be confined for a period of time not to exceed forty-five (45) days; or
 2. If the child is sixteen (16) years of age or older, the child may be confined for a period of time not to exceed ninety (90) days.

- (b) *Any child detained under this section, other than a child previously assessed pending a detention hearing, shall be assessed by a mental health professional to determine if the child exhibits behavior that indicates the child could benefit from cognitive behavioral therapy, other evidence-based behavioral health programs, substance use disorder treatment, or treatment in a psychiatric facility for serious mental illness. Any treatment recommended under this paragraph shall be provided by the Department of Juvenile Justice and may be provided pursuant to a contract between the Justice and Public Safety Cabinet and a behavioral health services organization.*
 - (c) *The Justice and Public Safety Cabinet may enter into a contract or contracts with at least one (1):*
 - 1. *Mental health professional whose communications with the child shall be confidential in conformity with the Kentucky Rules of Evidence, to provide the assessment required by paragraph (b) of this subsection; and*
 - 2. *Behavioral health services organization that is accredited and qualified to provide behavioral health treatment.*
 - (d) *Behavioral health services organizations contracted pursuant to paragraph (c) of this subsection may utilize restorative practices designed to hold the participant accountable to the victim if there is an identified victim and, in the professional opinion of the behavioral health service provider, it is safe to do so.*
 - (e) The Department of Juvenile Justice shall pay for the confinement of children confined pursuant to this subsection in accordance with the statewide detention plan and administrative regulations implementing the plan;
- (4) (a) Order the child to be committed or recommitted to the custody of the Department of Juvenile Justice, grant guardianship to a child-caring facility or a child-placing agency authorized to care for the child, or place the child under the custody and supervision of a suitable person if:
- 1. The child was adjudicated for an offense that would be a misdemeanor or Class D felony if committed by an adult and the child has at least three (3) prior adjudications, excluding prior adjudications of offenses designated as a violation, or at least four (4) prior adjudications of violations, which do not arise from the same course of conduct; or
 - 2. The child was adjudicated for an offense involving a deadly weapon, an offense in which the child has been declared a juvenile sexual offender under KRS 635.510, or an offense that would be a felony offense if committed by an adult, other than a Class D felony.
- (b) The commitment shall be for the following term, subject to KRS 635.070 and the power of the court to terminate the order and discharge the child prior thereto:
- 1. If the child was adjudicated for an offense that would be a misdemeanor if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS 635.510 or an offense involving a deadly weapon, the child may be committed for a period not to exceed twelve (12) months, including all time spent in the treatment plan established pursuant to KRS 15A.0652;
 - 2. If the child was adjudicated for an offense that would be a Class D felony if committed by an adult, other than an offense for which a child has been declared a juvenile sex offender under KRS 635.510 or an offense involving a deadly weapon, the child may be committed for a period not to exceed eighteen (18) months, including all time spent in the treatment plan established pursuant to KRS 15A.0652;
 - 3. If the child was adjudicated for an offense that would be a felony offense if committed by an adult, other than a Class D felony offense, or an offense involving a deadly weapon, the child may be committed up to age eighteen (18);
 - 4. If the child was adjudicated for an offense that results in the child being declared a juvenile sexual offender, the commitment shall be as provided in KRS 635.515;
 - 5. The court, in its discretion, upon motion by the child and with the concurrence of the Department of Juvenile Justice, may authorize an extension of commitment up to age twenty-one (21) to permit the Department of Juvenile Justice to assist the child in establishing independent living arrangements; and

6. If a child is committed after the child reaches the age of seventeen (17) years and six (6) months, and except as provided in subparagraph 4. of this paragraph, the commitment shall be for a period not to exceed one (1) year.
- (c) The Department of Juvenile Justice shall:
1. Accept physical custody of a child who is detained in an approved secure juvenile detention facility in accordance with KRS 15A.200 to 15A.240 at the time the child is committed or recommitted to the custody of the Department of Juvenile Justice. The Department of Juvenile Justice shall remove the child from the approved secure juvenile detention facility and secure appropriate placement as soon as possible but not to exceed thirty-five (35) days of the time of commitment or recommitment; and
 2. Pay for the cost of detention from the date of commitment or recommitment, on the current charge, until the child is removed from the detention facility and placed.
- (d) All orders of commitment may include advisory recommendations the court may deem proper in the best interests of the child and of the public.~~;~~
- (e) *Any child committed under this section, other than a child previously assessed pending a detention hearing, shall be assessed by a mental health professional to determine if the child exhibits behavior that indicates the child could benefit from cognitive behavioral therapy, other evidence-based behavioral health programs, substance use disorder treatment, or treatment in a psychiatric facility for serious mental illness. Any treatment recommended under this paragraph shall be provided by the Department of Juvenile Justice and may be provided pursuant to a contract between the Justice and Public Safety Cabinet and a behavioral health services organization.*
- (f) *The Justice and Public Safety Cabinet may enter into a contract or contracts with at least one (1):*
1. *Mental health professional whose communications with the child shall be confidential in conformity with the Kentucky Rules of Evidence, to provide the assessment required by paragraph (e) of this subsection; and*
 2. *Behavioral health services organization that is accredited and qualified to provide behavioral health treatment.*
- (g) *Behavioral health services organizations contracted pursuant to paragraph (f) of this subsection may utilize restorative practices designed to hold the participant accountable to the victim if there is an identified victim and, in the professional opinion of the behavioral health service provider, it is safe to do so; or*
- (5) (a) The court may probate or suspend a commitment ordered pursuant to subsection (4) of this section, except that if a court probates or suspends a commitment in conjunction with any other dispositional alternative, that fact shall be explained to the juvenile and contained in a written order.
- (b) Any probation or suspension imposed shall not exceed the time limitations established under subsection (2) of this section.
- (c) If the child successfully completes the conditions of probation, the court shall terminate the case.
- (d) 1. The court may, for violations of the conditions of probation, revoke the probation or suspension ordered under this section and order the child committed.
2. The period of the commitment shall not exceed the terms established under subsection (4) of this section.
3. Any time a child has spent in out-of-home placement as a result of a violation of a condition of probation or suspension under this section shall be credited toward the period of commitment.
4. If a commitment is probated or suspended after a child reaches the age of seventeen (17) years and six (6) months, the period of the suspension, and commitment if revoked, shall be for a period not to exceed one (1) year, but not to exceed age nineteen (19).

➔Section 6. KRS 610.340 is amended to read as follows:

- (1) (a) Unless a specific provision of KRS Chapters 600 to 645 specifies otherwise, all juvenile court records of any nature generated pursuant to KRS Chapters 600 to 645 by any agency or instrumentality, public or private, shall be deemed to be confidential and shall not be disclosed except to the child, parent,

victims, or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070 unless ordered by the court for good cause.

- (b) Juvenile court records which contain information pertaining to arrests, petitions, adjudications, and dispositions of a child may be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.
 - (c) Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the Federal Social Security Act shall not be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.
 - (d) Victim access under this subsection to juvenile court records shall include access to records of adjudications that occurred prior to July 15, 1998.
- (2) The provisions of this section shall not apply to public officers or employees engaged in the investigation of and in the prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes. Any record obtained pursuant to this subsection shall be used for official use only, shall not be disclosed publicly, and shall be exempt from disclosure under the Open Records Act, KRS 61.870 to 61.884.
 - (3) The provisions of this section shall not apply to any peace officer, as defined in KRS 446.010, who is engaged in the investigation or prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes. Any record obtained pursuant to this subsection shall be used for official use only, shall not be disclosed publicly, and shall be exempt from disclosure under the Open Records Act, KRS 61.870 to 61.884.
 - (4) The provisions of this section shall not apply to employees of the Department of Juvenile Justice or cabinet or its designees responsible for any services under KRS Chapters 600 to 645 or to attorneys for parties involved in actions relating to KRS Chapters 600 to 645 or other prosecutions authorized by the Kentucky Revised Statutes.
 - (5) The provisions of this section shall not apply to records disclosed pursuant to KRS 610.320 or to public or private elementary and secondary school administrative, transportation, and counseling personnel, to any teacher or school employee with whom the student may come in contact, or to persons entitled to have juvenile records under KRS 610.345, if the possession and use of the records is in compliance with the provisions of KRS 610.345 and this section.
 - (6) (a) *The provisions of this section shall not apply to records or proceedings in any case in which a child has made an admission to or been adjudicated for a violent felony offense as defined in KRS 532.200 until the expiration of a three (3) year period from the date of admission or adjudication.*
 - (b) *If the child has not received any additional public offense convictions during the three (3) year period from the date of admission or adjudication, all records in the case shall be automatically sealed and shall not be disclosed consistent with the provisions of this section.*
 - (c) *As used in this subsection, "admission" means a formal admission in a case, on the record, upon the waiving of an adjudication hearing.*
 - ~~(7)(6)~~ No person, including school personnel, shall disclose any confidential record or any information contained therein except as permitted by this section or other specific section of KRS Chapters 600 to 645, or except as permitted by specific order of the court.
 - ~~(8)(7)~~ No person, including school personnel, authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain confidential records to which he *or she* is not entitled or for purposes for which he *or she* is not permitted to obtain them pursuant to KRS Chapters 600 to 645.
 - ~~(9)(8)~~ No person, including school personnel, not authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain records which are made confidential pursuant to KRS Chapters 600 to 645 except upon proper motion to a court of competent jurisdiction.
 - ~~(10)(9)~~ No person shall destroy or attempt to destroy any record required to be kept pursuant to KRS Chapters 600 to 645 unless the destruction is permitted pursuant to KRS Chapters 600 to 645 and is authorized by the court upon proper motion and good cause for the destruction being shown.
 - ~~(11)(10)~~ As used in this section the term "KRS Chapters 600 to 645" includes any administrative regulations which are lawfully promulgated pursuant to KRS Chapters 600 to 645.

~~(12)~~~~(11)~~ Nothing in this section shall be construed to prohibit a crime victim from speaking publicly after the adjudication about his or her case on matters within his or her knowledge or on matters disclosed to the victim during any aspect of a juvenile court proceeding.

➔Section 7. There is hereby appropriated General Fund moneys in the amount of \$3,400,000 in fiscal year 2022-2023 to the Department of Juvenile Justice for a capital project to assess and design the renovation of the Jefferson County Youth Detention Center contingent upon the completed transfer of property deed to the Commonwealth.

➔Section 8. There is hereby appropriated General Fund moneys in the amount of \$10,000,000 in fiscal year 2023-2024 to the Department of Juvenile Justice for a capital project for the first phase to renovate the Jefferson County Youth Detention Center contingent upon the completed transfer of property deed to the Commonwealth.

➔Section 9. There is hereby appropriated General Fund moneys in the amount of \$2,000,000 in fiscal year 2023-2024 to the Department of Juvenile Justice for the operating costs of the Jefferson County Youth Detention Center.

➔Section 10. There is hereby appropriated General Fund moneys in the amount of \$4,500,000 in fiscal year 2023-2024 to the Department of Juvenile Justice for the renovation of the Jefferson Regional Juvenile Detention Facility at Lyndon.

➔Section 11. The Cabinet for Health and Family Services is directed to provide youth in juvenile detention access to Medicaid benefits to the extent allowed by the federal Centers for Medicare and Medicaid Services.

Signed by Governor March 27, 2023.

CHAPTER 106

(SB 162)

AN ACT relating to public safety, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. KRS 15A.020 is amended to read as follows:

(1) The Justice and Public Safety Cabinet shall have the following departments:

(a) Department of Corrections;

(b) Department of Criminal Justice Training, which shall have the following divisions:

1. Training Operations Division; and

2. Administrative Division;

(c) Department of Juvenile Justice, which shall have the following offices *and divisions*:

1. Office of Program Operations, which shall have the following divisions:

a. Division of Western Region;

b. Division of Eastern Region; and

c. Division of Placement Services;

2. Office of Support Services, which shall have the following divisions:

a. Division of Administrative Services;

b. Division of Program Services; and

c. **Division of Professional Development**~~Division of Medical Services~~; and

3. Office of Community and Mental Health Services, which shall have the following *division*~~divisions~~:

a.~~—~~ ~~Division of Professional Development~~; and

~~b.~~ Division of Community and Mental Health Services;

4. ***Office of Detention, which shall require that all detention centers report to one (1) supervisor who reports directly to the commissioner, and which shall have the following division:***

a. ***Division of Transportation; and***

5. ***Division of Compliance;***

(d) Department of Kentucky State Police, which shall have the following offices and divisions:

1. Office of Administrative Services, which shall be headed by an executive director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the commissioner;

a. Division of Operational Support, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Administrative Services; and

b. Division of Management Services, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Administrative Services;

2. Office of Operations, which shall be headed by an executive director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the commissioner;

a. Division of West Troops, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations;

b. Division of East Troops, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations;

c. Division of Special Enforcement, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations; and

d. Division of Commercial Vehicle Enforcement, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations; and

3. Office of Technical Services, which shall be headed by an executive director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the commissioner;

a. Division of Forensic Services, which shall be headed by a director who shall have a minimum of a bachelor's degree in a natural science and at least seven (7) years of experience in an accredited forensic laboratory, who shall be appointed by the commissioner of the Department of Kentucky State Police, and who shall report to the executive director of the Office of Technical Services; and

b. Division of Information Technology, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Technical Services; and

(e) Department of Public Advocacy, which shall have the following divisions:

1. Protection and Advocacy Division;

2. Division of Law Operations;

3. Division of Trial Services;

4. Division of Post-Trial Services; and

5. Division of Conflict Services.

- (2) Each department, except for the Department of Public Advocacy, shall be headed by a commissioner who shall be appointed by the secretary of the Justice and Public Safety Cabinet with the approval of the Governor as required by KRS 12.040. Each commissioner shall be directly responsible to the secretary and shall have such functions, powers, and duties as provided by law and as the secretary may prescribe. The Department of Public Advocacy shall be headed by the public advocate, appointed as required by KRS 31.020, who shall be directly responsible to the Public Advocacy Commission. The Department of Public Advocacy is an independent state agency which shall be attached to the Justice and Public Safety Cabinet for administrative purposes only. The Justice and Public Safety Cabinet shall not have control over the Department of Public Advocacy's information technology equipment and use unless granted access by court order.
- (3) The Justice and Public Safety Cabinet shall have the following offices and divisions:
- (a) Office of the Secretary, which shall be headed by a deputy secretary appointed pursuant to KRS 12.050 and responsible for the direct administrative support for the secretary and other duties as assigned by the secretary, and which, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - (b) Office of Human Resource Management, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible to and report to the secretary and be responsible for all matters relating to human resources, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 1. Division of Human Resource Administration, which shall be headed by a director appointed pursuant to KRS 12.050 who shall report to the executive director of the Office of Human Resource Management; and
 2. Division of Employee Management, which shall be headed by a director appointed pursuant to KRS 12.050 who shall report to the executive director of the Office of Human Resource Management;
 - (c) Office of Legal Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 and 12.210, that:
 1. Shall provide legal representation and services for the cabinet; and
 2. May investigate all complaints regarding the facilities, staff, treatment of juveniles, and other matters relating to the operation of the Justice and Public Safety Cabinet. If it appears that there is a violation of statutes, administrative regulations, policies, court decisions, the rights of juveniles who are subject to the orders of the department, or any other matter relating to the Justice and Public Safety Cabinet, the office shall report to the secretary of the Justice and Public Safety Cabinet who shall, if required, refer the matter to a law enforcement agency, Commonwealth's attorney, county attorney, the Attorney General, or federal agencies, as appropriate. The office may be used to investigate matters in which there is a suspicion of violation of written policy, administrative regulation, or statutory law within the Department of Public Advocacy only when the investigation will have no prejudicial impact upon a person who has an existing attorney-client relationship with the Department of Public Advocacy. Notwithstanding the provisions of this subparagraph, investigation and discipline of KRS Chapter 16 personnel shall continue to be conducted by the Department of Kentucky State Police pursuant to KRS Chapter 16. The office shall conduct no other investigations under the authority granted in this subparagraph. The secretary may, by administrative order, assign the investigative functions in this subparagraph to a branch within the office.

The executive director shall be directly responsible to and report to the secretary and, with the approval of the secretary, may employ such attorneys appointed pursuant to KRS 12.210 and other staff as necessary to perform the duties, functions, and responsibilities of the office;
 - (d) Office of Legislative and Intergovernmental Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the provision of support to the Criminal Justice Council, legislative liaison services, and functions and duties vested in the Criminal Justice Council as described in KRS 15A.030. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;

- (e) Office of Communications, which shall be headed by an executive director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall be responsible to report to the secretary and be responsible for all matters relating to communications, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - 1. Information and Technology Services Division, which shall be headed by a director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall report to the executive director of the Office of Communications;
- (f) Office of Financial Management Services, which shall be headed by an executive director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall be responsible to report to the secretary and be responsible for all matters relating to fiscal functions, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - 1. Division of Financial Management, which shall be headed by a director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall report to the executive director of the Office of Financial Management Services;
- (g) Grants Management Division, which shall be headed by a director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall be responsible to report to the secretary and be responsible for all matters relating to state and federal grants management, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
- (h) Office of the Kentucky State Medical Examiner, which shall be headed by a chief medical examiner appointed pursuant to KRS 72.240 who shall be responsible for all matters relating to forensic pathology and forensic toxicology and other duties as assigned by the secretary. The executive director appointed pursuant to KRS 12.050 shall be responsible for all matters related to the administrative support of the Office of the State Medical Examiner. The executive director shall report directly to the secretary and with the approval of the secretary may employ such administrative support staff as necessary to perform the administrative duties, functions, and responsibilities of the office. The chief medical examiner shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the forensic duties, functions, and responsibilities of the office; and
- (i) Office of Drug Control Policy, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the research, coordination, and execution of drug control policy and for the management of state and federal grants, including but not limited to the prevention and treatment related to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall review, approve, and coordinate all current projects of any substance abuse program which is conducted by or receives funding through agencies of the executive branch. This oversight shall extend to all substance abuse programs which are principally related to the prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the Commonwealth. The Office of Drug Control Policy shall promulgate administrative regulations consistent with enforcing this oversight authority. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office.

➔Section 2. KRS 15A.061 is amended to read as follows:

- (1) ***The cabinet shall maintain a comprehensive, centralized data tracking system for the Department of Juvenile Justice.***
- (2) The cabinet shall ensure that all departments within the cabinet collaborate to develop procedures to allow collection and sharing of data necessary to analyze juvenile recidivism. Recidivism includes an adjudication of delinquency by a juvenile court, or a conviction by a District Court or Circuit Court, for an offense committed within three (3) years of release from the custody or control of the Department of Juvenile Justice.

➔Section 3. KRS 15A.063 is amended to read as follows:

- (1) The Juvenile Justice Oversight Council is created for the purpose of providing independent review of the state juvenile justice system and providing recommendations to the General Assembly. The council ~~shall~~ ***is to*** actively ~~engage in~~ ***review*** the implementation of ~~all~~ ***the*** juvenile justice reforms ***enacted by the General***

~~Assembly in 2014 Ky. Acts ch. 132~~, collect and review performance measurement data, and continue to review the juvenile justice system for changes that improve public safety, hold youth accountable, provide better outcomes for children and families, and control juvenile justice costs.

- (2) (a) The membership of the council shall include the following:
1. The secretary of the Justice and Public Safety Cabinet, ex officio;
 2. The commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities, ex officio;
 3. The commissioner of the Department for Community Based Services, ex officio;
 4. The commissioner of the Department of Juvenile Justice, ex officio;
 5. The commissioner of the Department of Education, ex officio;
 6. The director of the Administrative Office of the Courts, ex officio;
 7. The Public Advocate, ex officio;
 8. The Senate chair of the Committee on Judiciary, nonvoting ex officio;
 9. The House chair of the Committee on Judiciary, nonvoting ex officio;
 10. ***One (1) member of the Senate appointed by the President of the Senate, and one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate, who shall serve as ex officio, nonvoting members for the duration of the terms for which they were elected;***
 11. ***One (1) member of the House of Representatives appointed by the Speaker of the House of Representatives, and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives, who shall serve as ex officio, nonvoting members for the duration of the terms for which they were elected;*** and
 - 12.~~[10.]~~ Five (5) at-large members appointed by the Governor, as follows:
 - a. One (1) member representing public schools or an education group or organization;
 - b. One (1) District Judge nominated by the Chief Justice of the Kentucky Supreme Court;
 - c. One (1) member representing law enforcement;
 - d. One (1) member of the County Attorneys' Association nominated by the Attorney General; and
 - e. One (1) member representing community-based organizations, whether for-profit or nonprofit, with experience in programs for juveniles, including substance abuse prevention and treatment, case management, mental health, or counseling.
- (b) The chairs of the House and Senate Judiciary Committees shall serve as co-chairs.
- (c) At-large members shall be appointed by August 1, 2022, shall serve a term of two (2) years, and may be reappointed.
- (d) Each ex officio member, except for legislative members, may designate a proxy by written notice to the council prior to call of order of each meeting, and the proxy shall be entitled to participate as a full voting member.
- (e) Except as otherwise provided by law, members shall not be compensated for being members of the council but shall be reimbursed for ordinary travel expenses, including meals and lodging, incurred while performing council business.
- (f) The council shall meet at least quarterly. A quorum, consisting of a majority of the membership of the council, shall be required for the transaction of business. Meetings shall be held at the call of the chair, or upon the written request of two (2) members to the chair.
- (3) The council shall:
- (a) ***Review***~~[Oversee]~~ the implementation of the reforms ***enacted by the General Assembly;***~~[contained in 2014 Ky. Acts ch. 132, including:]~~

- (b)~~[1.]~~ Review~~[of the]~~ performance measures~~[to be adopted]~~ and recommend modifications;
- (c)~~[2.]~~ **Review**~~[Ensure]~~ all policies **to confirm implementation as**~~[are implemented in accordance with the time frames]~~ established **by legislation enacted by the General Assembly and administrative regulations promulgated thereunder;**
- (d)~~[3.]~~ **Review**~~[Ensure]~~ the fiscal incentive program established pursuant to KRS 15A.062~~[is implemented and continue to review the program; and~~
- ~~4. — Review the Department of Juvenile Justice facilities plan submitted following a reduction of population and make recommendations to the General Assembly as to the plan and any changes to the reinvestment of savings achieved from the closure of any facilities];~~
- (e)~~[(b)]~~ Collect and review performance data and recommend any additional performance measures needed to identify outcomes in the juvenile justice system;
- (f)~~[(c)]~~ Review the information received from the Department of Education pursuant to KRS 156.095, and determine whether any action is necessary, including additional performance measures, funding, or legislation;
- (g)~~[(d)]~~ Continue review of juvenile justice areas determined appropriate by the council, including:
1. Status offense reform;
 2. Necessary training for school resource officers as defined in KRS 158.441, in juvenile justice best practices, research, and impacts on recidivism and long-term outcomes;
 3. Graduated sanctions protocols in public schools, including their current use and their development statewide;
 4. A minimum age of criminal responsibility;
 5. Competency;
 6. Reforms to the family resource and youth service centers in the Cabinet for Health and Family Services;
 7. Population levels in Department of Juvenile Justice facilities, and the potential for closure of facilities while maintaining staffing ratios necessary to comply with applicable accreditation standards; and
 8. Whether juvenile court hearings should be open to the public;~~[and]~~
- (h) **Review and make recommendations regarding:**
1. **The structure and staffing of the Department of Juvenile Justice;**
 2. **Training of juvenile justice staff;**
 3. **The adequacy of current programs and facilities operated by the Department of Juvenile Justice;**
 4. **Best practices in juvenile justice programs and facilities; and**
 5. **Other topics as determined by the council; and**
- (i)~~[(e)]~~ Report by **December 1, 2023**~~[November 2014]~~, and by **December 1**~~[November]~~ of each year thereafter, to the Interim Joint Committee on Judiciary and the Governor and make recommendations to the General Assembly for any additional legislative changes the council determines appropriate.
- (4) The council shall be attached to the **Legislative Research Commission**~~[Justice and Public Safety Cabinet]~~ for administrative purposes.
- (5) The council shall terminate on July 1, 2030, unless the General Assembly extends the term of the council.
- ➔Section 4. KRS 15A.305 is amended to read as follows:
- (1) The Department of Juvenile Justice shall~~[, with available funds,]~~ develop and administer a statewide detention program and, as each regional facility is constructed and ready for occupancy, shall~~[, within appropriation limitations,]~~ provide for:
- (a) The operation of preadjudication detention facilities for children charged with public offenses; and

- (b) The operation of postadjudication detention facilities for children adjudicated delinquent or found guilty of public offenses.
- (2) In each region in which the Department of Juvenile Justice operates or contracts for the operation of a detention facility, the department shall ~~within appropriation limitations,~~ develop and administer a program for alternatives to secure detention that shall provide for:
 - (a) The operation of or contracting for the operation of preadjudication alternatives to secure detention and follow-up programs for juveniles who are before the court or who enter pretrial diversion or informal adjustment programs; and
 - (b) The operation of or contracting for the operation of postadjudication alternatives to secure detention and follow-up programs, including but not limited to community-based programs, mentoring, counseling, and other programs designed to limit the unnecessary use of secure detention and ensure public safety.
- (3) The department shall develop and implement a system to immediately notify the Cabinet for Health and Family Services when a status offender or child alleged to be a status offender has been detained for the alleged violation of a valid court order.
- (4) The department may, except as provided in KRS 635.060, charge counties, consolidated local governments, and urban-county governments a per diem not to exceed ninety-four dollars (\$94) for lodging juveniles in state-owned or contracted facilities.
- (5) Detention rates charged by contracting detention facilities shall not exceed the rate in effect on July 1, 1997, subject to increases approved by the department.
- (6) No juvenile detention facility, as defined in KRS 15A.200, shall be taken over, purchased, or leased by the Commonwealth without prior approval of the fiscal court upon consultation with the jailer in the county where the facility is located. The county, upon consultation with the jailer, may enter into contracts with the Commonwealth for the holding, detention, and transportation of juveniles.
- (7) ***The Department of Juvenile Justice shall enter into sufficient contracts to ensure the availability of institutional treatment for children with severe emotional disturbance or mental illness as soon as practicable.***
- (8) ***The Department of Juvenile Justice shall, for any facility operated pursuant to subsection (1) of this section, require that the facility:***
 - (a) ***Provide children in crisis who are residing in a juvenile detention facility access to a mental health professional whose communications with the child are privileged under the Kentucky Rules of Evidence;***
 - (b) ***Conduct monthly documented training related to emergency response;***
 - (c) ***Ensure that appropriate staff working with detained youth have controlled access to, and are properly trained in the use of, appropriate defensive equipment comparable to that utilized by the Department of Corrections, including tasers, pepper spray, and shields;***
 - (d) ***Establish a specially trained emergency response team within each juvenile detention center and youth development center which shall be trained in tactics related to detention facilities and engage in monthly drills as part of emergency response training;***
 - (e) ***Enter into a memorandum of understanding with local law enforcement for emergency response and include these agencies in emergency response trainings;***
 - (f) ***Be equipped with an alarm that directly communicates an emergency situation to the local dispatch center; and***
 - (g) ***Promulgate administrative regulations in accordance with KRS Chapter 13A to implement this subsection.***

➔Section 5. KRS 610.340 is amended to read as follows:

- (1) (a) Unless a specific provision of KRS Chapters 600 to 645 specifies otherwise, all juvenile court records of any nature generated pursuant to KRS Chapters 600 to 645 by any agency or instrumentality, public or private, shall be deemed to be confidential and shall not be disclosed except to the child, parent, victims, or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070 unless ordered by the court for good cause.

- (b) Juvenile court records which contain information pertaining to arrests, petitions, adjudications, and dispositions of a child may be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.
 - (c) Release of the child's treatment, medical, mental, or psychological records is prohibited unless presented as evidence in Circuit Court. Any records resulting from the child's prior abuse and neglect under Title IV-E or Title IV-B of the Federal Social Security Act shall not be disclosed to victims or other persons authorized to attend a juvenile court hearing pursuant to KRS 610.070.
 - (d) Victim access under this subsection to juvenile court records shall include access to records of adjudications that occurred prior to July 15, 1998.
- (2) The provisions of this section shall not apply to public officers or employees engaged in the investigation of and in the prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes. Any record obtained pursuant to this subsection shall be used for official use only, shall not be disclosed publicly, and shall be exempt from disclosure under the Open Records Act, KRS 61.870 to 61.884.
 - (3) The provisions of this section shall not apply to any peace officer, as defined in KRS 446.010, who is engaged in the investigation or prosecution of cases under KRS Chapters 600 to 645 or other portions of the Kentucky Revised Statutes. Any record obtained pursuant to this subsection shall be used for official use only, shall not be disclosed publicly, and shall be exempt from disclosure under the Open Records Act, KRS 61.870 to 61.884.
 - (4) The provisions of this section shall not apply to employees of the Department of Juvenile Justice or cabinet or its designees responsible for any services under KRS Chapters 600 to 645 or to attorneys for parties involved in actions relating to KRS Chapters 600 to 645 or other prosecutions authorized by the Kentucky Revised Statutes.
 - (5) The provisions of this section shall not apply to records disclosed pursuant to KRS 610.320 or to public or private elementary and secondary school administrative, transportation, and counseling personnel, to any teacher or school employee with whom the student may come in contact, or to persons entitled to have juvenile records under KRS 610.345, if the possession and use of the records is in compliance with the provisions of KRS 610.345 and this section.
 - (6) ***The provisions of this section shall not apply to employees of local law enforcement agencies, the Department of Kentucky State Police, or the Federal Bureau of Investigation engaged in conducting background checks for the sole purpose of identifying and providing potentially disqualifying juvenile public offense records to the National Instant Criminal Background Check System pursuant to Div. A, Title II, Sec. 12001(a) of the Bipartisan Safer Communities Act, Pub. L. No. 117-159. Notwithstanding KRS 635.040, an adjudication for a public offense is a conviction of a crime for purposes of 18 U.S.C. sec. 922(d)(1), (d)(3), or (d)(9). Any public offense record obtained pursuant to this subsection shall be used for official use only, not be disclosed publicly, and be exempt from disclosure under the Open Records Act, KRS 61.870 to 61.884.***
 - (7) No person, including school personnel, shall disclose any confidential record or any information contained therein except as permitted by this section or other specific section of KRS Chapters 600 to 645, or except as permitted by specific order of the court.
 - ~~(8)~~ ~~(7)~~ No person, including school personnel, authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain confidential records to which he is not entitled or for purposes for which he is not permitted to obtain them pursuant to KRS Chapters 600 to 645.
 - ~~(9)~~ ~~(8)~~ No person, including school personnel, not authorized to obtain records pursuant to KRS Chapters 600 to 645 shall obtain or attempt to obtain records which are made confidential pursuant to KRS Chapters 600 to 645 except upon proper motion to a court of competent jurisdiction.
 - ~~(10)~~ ~~(9)~~ No person shall destroy or attempt to destroy any record required to be kept pursuant to KRS Chapters 600 to 645 unless the destruction is permitted pursuant to KRS Chapters 600 to 645 and is authorized by the court upon proper motion and good cause for the destruction being shown.
 - ~~(11)~~ ~~(10)~~ As used in this section the term "KRS Chapters 600 to 645" includes any administrative regulations which are lawfully promulgated pursuant to KRS Chapters 600 to 645.

~~(12)~~~~(11)~~ Nothing in this section shall be construed to prohibit a crime victim from speaking publicly after the adjudication about his or her case on matters within his or her knowledge or on matters disclosed to the victim during any aspect of a juvenile court proceeding.

➔Section 6. The Justice and Public Safety Cabinet shall:

(1) Develop and implement, as soon as practicable, a plan that will transition back to the regional model of juvenile detention center facilities while safely segregating males and females and separating violent and nonviolent offenders. The plan shall provide for a return to the regional structure from the current emergency structure;

(2) Within 30 days after the effective date of this Act, return to a uniform requirement for Department of Juvenile Justice correctional officers within juvenile detention facilities;

(3) Within 90 days after the effective date of this Act, implement a Youth Worker-R program to retain retired youth workers to supplement the staff of the Department of Juvenile Justice;

(4) Within 30 days after the effective date of this Act, notwithstanding KRS Chapter 18A, implement a limited duration program to allow staff of the Department of Juvenile Justice who have resigned to return at their previous employment classification with the approval of the department;

(5) Reinstatement and maintain a management training program for the Department of Juvenile Justice for all leadership positions, including the commissioner, and provide that any individual who has satisfactorily completed the training program shall be an eligible candidate for any leadership position within the department, including the position of commissioner; and

(6) Develop and implement a plan to identify and transfer any juvenile to another facility if the transfer is related to a security risk, is necessary to avoid interference with any criminal investigation, or is necessary due to lack of available beds or staff shortages.

➔Section 7. Within 90 days after the effective date of this Act, the Department for Medicaid Services shall develop and submit an amendment to the Section 1115 demonstration waiver submitted pursuant to 2021 Ky. Acts ch. 169, Part I, G., 3., b., (16) to provide Medicaid benefits to Medicaid-eligible children detained by the Department of Juvenile Justice. Upon approval of the waiver, the cost of medical and behavioral health care shall be a covered Medicaid benefit for an incarcerated child.

➔Section 8. The Office of the Auditor of Public Accounts shall contract with a third party to perform a full performance review of the preadjudication facilities operated by, and the preadjudication programs administered by, the Department of Juvenile Justice within the Justice and Public Safety Cabinet. The Office of the Auditor of Public Accounts shall contract with an entity that has experience in reviewing the performance of state agencies offering juvenile detention facilities and programs.

Notwithstanding any law to the contrary, the Office of the Auditor of Public Accounts shall procure professional services by a personal service contract through noncompetitive negotiation with an entity that has experience in reviewing the performance of state agencies offering juvenile detention facilities and programs. The Office of the Auditor of Public Accounts shall not contract with any entity that accredits Kentucky's preadjudication juvenile detention facilities or programs, or Kentucky's postadjudication juvenile detention facilities or programs.

The contracting party shall enter into a memorandum of understanding with the Legislative Oversight and Investigations Committee of the Legislative Research Commission concerning the exchange of materials and work papers and maintenance of confidentiality. The contract shall provide that the performance review results shall be reported to the Legislative Research Commission, and any materials related to the performance review shall be provided to the Legislative Research Commission. An initial preliminary report of the results of the performance review shall be submitted to the Legislative Research Commission by October 15, 2023.

➔Section 9. The contracted entity under Section 8 of this Act shall have the authority provided under KRS 43.080 and KRS 43.090. Employees of the Department of Juvenile Justice shall be allowed to participate in interviews outside the presence of any supervisor, official, or counsel representing the department or the Justice and Public Safety Cabinet. The work papers of the contracted entity shall be confidential and shall not be subject to subpoena, or to review or production under KRS 61.870 to KRS 61.884, the Kentucky Open Records Act.

➔Section 10. The scope of the performance review shall be for the period from January 1, 2016, to December 31, 2022, and shall include but not be limited to:

(1) Interviews with front-line employees;

(2) Interviews with law enforcement agencies in the area of the detention facility;

- (3) Review of adopted staffing procedures, and the compliance or noncompliance with the adopted procedures on-site;
- (4) Review of incident reporting procedures and incident reports;
- (5) Receipt, review, and actions taken by the Department of Juvenile Justice related to complaints and concerns from employees;
- (6) Review of all monthly reports; and
- (7) Review of all complaints and exit interview forms.

➔Section 11. General Fund moneys in the amount of \$38,000,000 from the General Fund appropriation of \$200,000,000 in fiscal year 2023-2024 set out in 2022 Ky. Acts ch. 199, Part I, N., 1. are hereby transferred as follows:

- (1) \$3,200,000 to the Department of Juvenile Justice in fiscal year 2023-2024 to maintain the salary increases provided to youth workers in juvenile detention centers in fiscal year 2022-2023;
- (2) \$4,800,000 to the Department of Juvenile Justice in fiscal year 2023-2024 to provide salary increases to other job classifications within the department; and
- (3) \$30,000,000 to the Adult Correctional Institutions budget unit in fiscal year 2023-2024 to provide salary increases for correctional officers within the Department of Corrections facilities in the same manner as was provided to youth workers in juvenile detention facilities with a base pay of \$50,000.

➔Section 12. There is hereby appropriated General Fund moneys in the amount of \$9,700,000 in fiscal year 2023-2024 to the Department of Juvenile Justice for 146 additional youth workers in juvenile detention centers.

➔Section 13. There is hereby appropriated General Fund moneys in the amount of \$200,000 in fiscal year 2023-2024 to the Department of Juvenile Justice for the development of a youth offender management system.

➔Section 14. There is hereby appropriated General Fund moneys in the amount of \$4,000,000 in fiscal year 2022-2023 to the Department of Juvenile Justice to provide security upgrades within the juvenile detention centers. Notwithstanding KRS 45.229, the General Fund appropriation under this section shall not lapse and shall carry forward for expenditure in fiscal year 2023-2024.

➔Section 15. There is hereby appropriated General Fund moneys in the amount of \$1,500,000 in fiscal year 2022-2023 to the Department of Juvenile Justice to establish a diversionary program to identify and provide treatment for any juvenile identified as suffering from severe mental illness, in conjunction with the State Interagency Council for Services and Supports to Children and Transition-age Youth, including any juvenile currently detained who shall be transferred as soon as practicable to a secure facility for treatment. As used in this section, "severe mental illness" means one or more mental, behavioral, or emotional disorders resulting in serious functional impairment, which substantially interferes with or limits one or more major life activities. Notwithstanding KRS 45.229, the General Fund appropriation under this section shall not lapse and shall carry forward for expenditure in fiscal year 2023-2024.

➔Section 16. There is hereby appropriated General Fund moneys in the amount of \$1,750,000 in fiscal year 2022-2023 to the Department of Juvenile Justice to retain design experts to enable a return to the regional model of juvenile detention center facilities. Notwithstanding KRS 45.229, the General Fund appropriation under this section shall not lapse and shall carry forward for expenditure in fiscal year 2023-2024.

➔Section 17. Any Department of Juvenile Justice or Adult Correctional Institutions employee receiving an increase in overall compensation due to either a base salary increase, or the addition of new or increased locality pay, as part of the compensation enhancement process beginning in December 2022, shall not be eligible for an annual statewide increment or increase in fiscal year 2023-2024.

➔Section 18. There is hereby appropriated General Fund moneys in the amount of \$250,000 in fiscal year 2022-2023 to the Department of Juvenile Justice for transportation costs for female youth detained by the Department of Juvenile Justice to be used until the juvenile detention system returns to a regional model. Such transportation costs shall be on a cost-reimbursement basis to the local law enforcement agency providing transport which shall certify the actual cost on a form provided by the Finance and Administration Cabinet. Reimbursement for the transport of male youth detained by the Department of Juvenile Justice may also be made in the same manner as females only upon a court order and only when the Department of Juvenile Justice cannot accommodate the transport. Reimbursement for transport of male youth shall only be made to the local law enforcement agency if it is to a juvenile justice facility other than the regional juvenile detention center in its catchment area. Notwithstanding KRS

45.229, the General Fund appropriation under this section shall not lapse and shall carry forward for expenditure in fiscal year 2023-2024.

➔Section 19. There is hereby appropriated General Fund moneys in the amount of \$500,000 in fiscal year 2022-2023 to the Auditor of Public Accounts budget unit to fund the performance review directed under Section 8 of this Act. Notwithstanding KRS 45.229, any portion of these funds not expended shall not lapse and shall carry forward for expenditure in fiscal year 2023-2024.

➔Section 20. Whereas the operations of the Department of Juvenile Justice and the safety of juveniles and staff are imperative for the betterment of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 27, 2023.

CHAPTER 107

(SB 229)

AN ACT relating to child abuse.

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

➔Section 1. KRS 69.210 is amended to read as follows:

- (1) The county attorney shall attend the fiscal court or consolidated local government and conduct all business touching the rights or interests of the county or consolidated local government, and when so directed by the fiscal court or consolidated local government, he or she shall institute, defend, and conduct all civil actions in which the county or consolidated local government is interested before any of the courts of the Commonwealth.
- (2)
 - (a) The county attorney shall attend to the prosecution in the juvenile session of the District Court of all proceedings held pursuant to petitions filed under KRS Chapter 610 and over which the juvenile session of the District Court has jurisdiction pursuant to KRS Chapter 610.
 - (b) *Notwithstanding paragraph (a) of this subsection, the attorneys for the Cabinet for Health and Family Services may attend to the prosecution of any case under KRS Chapter 620 upon written notice to the county attorney and judge of the District Court or family division of the Circuit Court.*
- (3) The county attorney shall give legal advice to the fiscal court or consolidated local government and the several county or consolidated local government officers in all matters concerning any county or consolidated local government business within their jurisdiction. He or she shall oppose all unjust or illegally presented claims.
- (4) A county attorney serving in a county, consolidated local government, or urban-county which is part of a judicial circuit described by KRS 69.010(2), in addition to the duties in subsections (1) and (2) of this section, shall have the following duties:
 - (a) He or she shall attend all civil cases and proceedings in his or her county in which the Commonwealth is interested; and
 - (b) He or she shall advise the collector of money due the Commonwealth in the county or consolidated local government in regard to motions against delinquent collecting officers for failing to return executions, and shall prosecute the motions. In no case shall the county attorney take a fee or act as counsel in any case in opposition to the interest of the county or consolidated local government.

➔Section 2. KRS 620.030 is amended to read as follows:

- (1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected, or abused shall immediately cause an oral or written report to be made to a local law enforcement agency or to the Department of Kentucky State Police, the cabinet or its designated representative, the Commonwealth's attorney, or the county attorney by telephone or otherwise. ~~Any supervisor who receives from an employee a report of suspected dependency, neglect, or abuse shall promptly make a report to the proper authorities for investigation.~~ If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a parent, guardian, fictive kin, person in a position of authority, person in a position of special trust, or person

exercising custodial control or supervision, the cabinet shall refer the matter to the Commonwealth's attorney or the county attorney and the local law enforcement agency or the Department of Kentucky State Police. Nothing in this section shall relieve individuals of their obligations to report.

- (2) (a) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer, or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected, or abused, regardless of whether the person believed to have caused the dependency, neglect, or abuse is a parent, guardian, fictive kin, person in a position of authority, person in a position of special trust, person exercising custodial control or supervision, or another person, or who has attended such child as a part of his or her professional duties, shall:
1. ***Immediately make an oral report in accordance with subsection (1) of this section;***
 2. ***Immediately notify the supervisor of the institution, school, facility, agency, or designated agent of the person in charge; and***~~[-]~~
 3. If requested, in addition to the report required in subsection (1) or (3) of this section, file with the local law enforcement agency or the Department of Kentucky State Police, the cabinet or its designated representative, the Commonwealth's attorney, or county attorney within forty-eight (48) hours of the original report a written report containing:
 - a.~~[(a)]~~ The names and addresses of the child and his or her parents or other persons exercising custodial control or supervision;
 - b.~~[(b)]~~ The child's age;
 - c.~~[(c)]~~ The nature and extent of the child's alleged dependency, neglect, or abuse, including any previous charges of dependency, neglect, or abuse, to this child or his or her siblings;
 - d.~~[(d)]~~ The name and address of the person allegedly responsible for the abuse or neglect; and
 - e.~~[(e)]~~ Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.
- (b) ***Upon notification, the supervisor or the designated agent, if any, shall facilitate the cooperation of the institution, school, facility, or agency with the investigation of the report.***
- (c) ***Any person who knowingly causes intimidation, retaliation, or obstruction in the investigation of the report shall be guilty of a Class A misdemeanor.***
- (d) ***This section shall not require more than one (1) report from any institution, school, facility, or agency.***
- (3) Any person who knows or has reasonable cause to believe that a child is a victim of human trafficking as defined in KRS 529.010 shall immediately cause an oral or written report to be made to a local law enforcement agency or the Department of Kentucky State Police; or the cabinet or its designated representative; or the Commonwealth's attorney or the county attorney; by telephone or otherwise. This subsection shall apply regardless of whether the person believed to have caused the human trafficking of the child is a parent, guardian, fictive kin, person in a position of authority, person in a position of special trust, or person exercising custodial control or supervision.
- (4) Any person who knows or has reasonable cause to believe that a child is a victim of female genital mutilation as defined in KRS 508.125 shall immediately cause an oral or written report to be made by telephone or otherwise to:
- (a) A local law enforcement agency or the Department of Kentucky State Police;
 - (b) The cabinet or its designated representative; or
 - (c) The Commonwealth's attorney or the county attorney.

This subsection shall apply regardless of whether the person believed to have caused the female genital mutilation of the child is a parent, guardian, or person exercising custodial control or supervision.

- (5) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.
- (6) The cabinet upon request shall receive from any agency of the state or any other agency, institution, or facility providing services to the child or his or her family, such cooperation, assistance, and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.
- (7) Nothing in this section shall limit the cabinet's investigatory authority under KRS 620.050 or any other obligation imposed by law.
- (8) Any person who intentionally violates the provisions of this section shall be guilty of a:
 - (a) Class B misdemeanor for the first offense;
 - (b) Class A misdemeanor for the second offense; and
 - (c) Class D felony for each subsequent offense.

➔Section 3. KRS 620.040 is amended to read as follows:

- (1)
 - (a) Upon receipt of a report alleging abuse or neglect by a parent, guardian, fictive kin, person in a position of authority, person in a position of special trust, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), or a report alleging a child is a victim of human trafficking pursuant to KRS 620.030(3), the recipient of the report shall immediately notify the cabinet or its designated representative, the local law enforcement agency or the Department of Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report~~[unless they are the reporting source]~~. ***If any agency listed above is the reporting source, the recipient shall immediately notify the cabinet or its designated representative, the local law enforcement agency, the Department of Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report.***
 - (b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk determined, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse or human trafficking of a child shall be considered high risk and shall not be referred to any other community agency.
 - (c) The cabinet shall, within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local ***law*** enforcement agency or the Department of Kentucky State Police concerning the action that has been taken on the investigation.
 - (d) If the report alleges abuse or neglect by someone other than a parent, guardian, fictive kin, person in a position of authority, person in a position of special trust, or person exercising custodial control or supervision, or the human trafficking of a child, the cabinet shall immediately notify the Commonwealth's or county attorney and the local law enforcement agency or the Department of Kentucky State Police.
- (2)
 - (a) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall immediately notify the cabinet or its designated representative.
 - (b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse or human trafficking of a child shall be considered high risk and shall not be referred to any other community agency.
 - (c) The cabinet need not notify the local law enforcement agency or the Department of Kentucky State Police or ***Commonwealth's or*** county attorney~~[or Commonwealth's attorney]~~ of reports made under this subsection unless the report involves the human trafficking of a child, in which case the notification shall be required.

- (3) If the cabinet or its designated representative receives a report of abuse by a person other than a parent, guardian, fictive kin, person in a position of authority, person in a position of special trust, or other person exercising custodial control or supervision of a child, it shall immediately notify the local law enforcement agency or the Department of Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents, and they shall investigate the matter. The cabinet or its designated representative shall participate in an investigation of noncustodial physical abuse or neglect at the request of the local law enforcement agency or the Department of Kentucky State Police. The cabinet shall participate in all investigations of reported or suspected sexual abuse or human trafficking of a child.
- (4) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.
- (5)
 - (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be requested from, and may be issued by, the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant, a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.
 - (b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he or she is returned to the persons having custody of him or her, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.
 - (c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury, is being sexually abused, or is a victim of human trafficking and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.
 - (d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he or she shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.
 - (e)
 1. If a report includes a child fatality or near fatality, and the law enforcement officer has reasonable grounds to believe any parent or person exercising custodial control or supervision of the child was under the influence of alcohol or drugs at the time the fatality or near fatality occurred, the law enforcement officer shall request a test of blood, breath, or urine from that person.
 2. If, after making the request, consent is not given for the test of blood, breath, or urine, a search warrant shall be requested from and may be issued by the judge to the appropriate law enforcement official upon probable cause that a child fatality or near fatality has occurred and that the person exercising custodial control or supervision of the child at the time of the fatality or near fatality was under the influence.
 3. Any test requested under this section shall be conducted pursuant to the testing procedures and requirements in KRS 189A.103.
- (6) To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with the child shall be conducted at a children's advocacy center.
- (7)
 - (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.
 - (b) Membership of the multidisciplinary team shall include but shall not be limited to social service workers employed by the Cabinet for Health and Family Services and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates including advocates for victims of human trafficking, educators, and other related professionals, as deemed appropriate.

- (c) The multidisciplinary team shall review child sexual abuse cases and child human trafficking cases involving commercial sexual activity referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.
 - (d) The team shall hold regularly scheduled meetings if new reports of sexual abuse or child human trafficking cases involving commercial sexual activity are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.
 - (e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases and child human trafficking cases involving commercial sexual activity.
 - (f) Multidisciplinary team members and anyone invited by the multidisciplinary team to participate in a meeting shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members and others attending meetings shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.
 - (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.
 - (h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.
 - (i) To the extent practicable, multidisciplinary teams shall be staffed by the local children's advocacy center.
- (8) Nothing in this section shall limit the cabinet's investigatory authority under KRS 620.050 or any other obligation imposed by law.

➔Section 4. KRS 620.072 is amended to read as follows:

- (1) If the cabinet's initial determination as to the risk of harm to and immediate safety of an *alleged* abused or neglected child as defined in KRS 600.020 requires an investigation *or assessment* pursuant to administrative regulations promulgated by the cabinet, including consideration of information on the nature and extent of a present danger or threat of danger to the child or cabinet staff, and if:
 - (a) The investigation requires a visit to the residence or location where the reported abuse or neglect occurred, the cabinet shall make the visit unannounced~~;~~; *or*
 - (b) *The assessment requires a visit to the residence or location where the reported abuse or neglect occurred, the cabinet shall make the visit announced or unannounced;*

in addition to any other actions taken to protect the child.
- (2) If the initial visit is necessary, after it is completed, the cabinet shall incorporate unannounced visits with any necessary scheduled visits until the welfare of the child has been safeguarded in accordance with administrative regulations promulgated by the cabinet.
- (3) If there is reason to believe a child is in imminent danger, or if a parent or caretaker of a child refuses the cabinet entry to a child's home or refuses to allow a child to be interviewed, the cabinet may request assistance:
 - (a) From law enforcement; or
 - (b) Through a request for a court order pursuant to KRS 620.040(5)(a).
- (4) A school or a child-care provider shall provide the cabinet access to a child subject to an investigation *or assessment* without parental consent.

Signed by Governor March 27, 2023.

CHAPTER 108

(HB 78)

AN ACT relating to sex crimes.

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

➔Section 1. KRS 530.020 is amended to read as follows:

- (1) A person is guilty of incest when he or she has sexual intercourse or deviate sexual intercourse, as defined in KRS 510.010, with a person whom he or she knows to be **his or her parent, child, grandparent, grandchild, great-grandparent, great-grandchild**~~[an ancestor, descendant]~~, uncle, aunt, **nephew, niece**, brother, ~~or~~ sister, **first cousin, ancestor, or descendant**. The relationships referred to herein include blood relationships of either the whole or half blood without regard to legitimacy, relationship of parent and child by adoption, relationship of stepparent and stepchild, and relationship of stepgrandparent and stepgrandchild.
- (2) (a) Incest is a Class C felony if the act is committed by consenting **persons**~~[adults]~~.
 - (b) Incest is a Class B felony if committed:
 1. **With a person without his or her consent;**
 2. By forcible compulsion as defined in KRS 510.010~~[(2)]~~; or
 - 3.~~2.~~ **With**~~On~~ **a person**~~[victim]~~ who is:
 - a. Less than eighteen (18) years of age **by a person three (3) or more years older**; or
 - b. Incapable of consent because he or she is physically helpless or mentally incapacitated **as defined in KRS 510.010**.
 - (c) Incest is a Class A felony if **committed**:
 1. **With**~~Committed on~~ **a person who is**~~[victim]~~ less than twelve (12) years of age; or
 2. **With a person without his or her consent causing**~~[The victim receives]~~ serious physical injury.

Signed by Governor March 27, 2023.

CHAPTER 109

(SB 80)

AN ACT relating to public safety.

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

➔Section 1. KRS 17.545 is amended to read as follows:

- (1) No registrant, as defined in KRS 17.500, shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned or leased playground, or licensed day care facility. The measurement shall be taken in a straight line from the nearest property line to the nearest property line of the registrant's place of residence.
- (2) (a) No registrant, as defined in KRS 17.500, nor any person residing outside of Kentucky who would be required to register under KRS 17.510 if the person resided in Kentucky, shall be on, **loiter within one thousand (1,000) feet of, or work in or operate any mobile business within one thousand (1,000) feet of** the clearly defined grounds of a high school, middle school, elementary school, preschool, publicly owned or leased playground, ~~or~~ licensed day care facility, **publicly owned or leased swimming pool, or splash pad as defined in KRS 211.205**, except with the advance written permission of the school principal, the school board, the local legislative body with jurisdiction over the publicly owned or leased playground, **publicly owned or leased swimming pool, or splash pad**, or the day care director

that has been given after full disclosure of the person's status as a registrant or sex offender from another state and all registrant information as required in KRS 17.500.

- (b) As used in this subsection: ~~[-]~~
1. "Local legislative body" means the chief governing body of a city, county, urban-county government, consolidated local government, charter county government, or unified local government that has legislative powers;
 2. ***"Loiter" includes remaining in or about the clearly defined grounds of a location described in paragraph (a) of this subsection, while not having any reason or relationship involving custody of or responsibility for a minor or any other specific legitimate reason for being there; and***
 3. ***"Mobile business" means any business that operates from a motor vehicle or wheeled cart that can be operated, pushed, or pulled on a sidewalk, street, or highway where food, goods, or services are prepared, processed, or sold or dispensed to the public.***
- (c) ***The measurement in paragraph (a) of this subsection shall be taken in a straight line from the nearest property line.***
- (3) For purposes of this section:
- (a) The registrant shall have the duty to ascertain whether any property listed in subsection (1) of this section is within one thousand (1,000) feet of the registrant's residence; and
 - (b) If a new facility opens, the registrant shall be presumed to know and, within ninety (90) days, shall comply with this section.
- (4) (a) Except as provided in paragraph (b) of this subsection, no registrant who is eighteen (18) years of age or older and has committed a criminal offense against a victim who is a minor shall have the same residence as a minor.
- (b) A registrant who is eighteen (18) years of age or older and has committed a criminal offense against a victim who is a minor may have the same residence as a minor if the registrant is the spouse, parent, grandparent, stepparent, sibling, stepsibling, or court-appointed guardian of the minor, unless the spouse, child, grandchild, stepchild, sibling, stepsibling, or ward was a victim of the registrant.
- (c) This subsection shall not operate retroactively and shall apply only to a registrant that committed a criminal offense against a victim who is a minor after July 14, 2018.
- (5) Any person who violates subsection (1) or (4) of this section shall be guilty of:
- (a) A Class A misdemeanor for a first offense; and
 - (b) A Class D felony for the second and each subsequent offense.
- (6) Any registrant residing within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned playground, or licensed day care facility on July 12, 2006, shall move and comply with this section within ninety (90) days of July 12, 2006, and thereafter, shall be subject to the penalties set forth under subsection (5) of this section.
- (7) The prohibition against a registrant:
- (a) Residing within one thousand (1,000) feet of a publicly leased playground as outlined in subsection (1) of this section; or
 - (b) Being on the grounds of a publicly leased playground as outlined in subsection (2) of this section;
- shall not operate retroactively.
- (8) ***The prohibition against a registrant loitering or working in or operating any mobile business within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, publicly owned or leased playground, licensed day care facility, publicly owned or leased swimming pool, or splash pad as defined in KRS 211.205 shall not operate retroactively.***
- (9) This section shall not apply to a youthful offender probated or paroled during his or her minority or while enrolled in an elementary or secondary education program.

➔Section 2. KRS 17.510 is amended to read as follows:

- (1) The cabinet shall develop and implement a registration system for registrants which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.
- (2) A registrant shall, on or before the date of his or her release by the court, the parole board, the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside. The person in charge of the release shall facilitate the registration process.
- (3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register by the court at the time of sentencing if the court grants probation or conditional discharge or does not impose a penalty of incarceration, or if incarcerated, by the official in charge of the place of confinement upon release. The court and the official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register has been explained to the person. The court and the official in charge of the place of confinement shall require the releasee to complete the acknowledgment form and the court or the official shall retain the original completed form. The official shall then send the form to the **Sex Offender Registry Section**~~Information Services Center~~, Department of Kentucky State Police, Frankfort, Kentucky 40601.
- (4) The court or the official shall order the person to register with the appropriate local probation and parole office which shall obtain the person's fingerprints, palm prints, DNA sample, photograph, and a copy of his or her motor vehicle operator's license as well as any other government-issued identification cards, if any. Thereafter, the registrant shall return to the appropriate local probation and parole office not less than one (1) time every two (2) years in order for a new photograph to be obtained, and the registrant shall pay the cost of updating the photo for registration purposes. Any registrant who has not provided palm prints, a copy of his or her motor vehicle operator's license, or a copy of any other government-issued identification cards, if any, as of July 14, 2018, shall provide the information to the appropriate local probation and parole office when the registrant appears for a new photograph to be obtained. Any change to a registrant's motor vehicle operator's license number or any other government-issued identification card after the registrant appears for a new photograph shall be registered in accordance with subsection ~~(11)~~~~(10)~~ of this section. Failure to comply with this requirement shall be punished as set forth in subsection ~~(12)~~~~(11)~~ of this section.
- (5)
 - (a) The appropriate probation and parole office shall send the registration form containing the registrant information, fingerprints, palm prints, photograph, and a copy of his or her motor vehicle operator's license as well as any other government-issued identification cards, if any, and any special conditions imposed by the court or the Parole Board, to the **Sex Offender Registry Section**~~Information Services Center~~, Department of Kentucky State Police, Frankfort, Kentucky 40601. The appropriate probation and parole office shall send the DNA sample to the Department of Kentucky State Police forensic laboratory in accordance with administrative regulations promulgated by the cabinet.
 - (b) The **Sex Offender Registry Section**~~Information Services Center~~, upon request by a state or local law enforcement agency, shall make available to that agency registrant information, including a person's fingerprints and photograph, where available, as well as any special conditions imposed by the court or the Parole Board.
 - (c) Any employee of the Justice and Public Safety Cabinet who disseminates, or does not disseminate, registrant information in good-faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (6)
 - (a) Except as provided in paragraph (b) of this subsection, any person who has been convicted in a court of any state or territory, a court of the United States, or a similar conviction from a court of competent jurisdiction in any other country, or a court martial of the United States Armed Forces of a sex crime or criminal offense against a victim who is a minor and who has been notified of the duty to register by that state, territory, or court, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, or has a similar conviction from a court of competent jurisdiction in any other country, shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register with the appropriate local probation and parole office in the county of residence within five (5) working days of relocation. No additional notice of the duty to register shall be required of any official charged with a duty of enforcing the laws of this Commonwealth.
 - (b) No person shall be required to register under this subsection for a juvenile adjudication if such an adjudication in this Commonwealth would not create a duty to register. This paragraph shall be retroactive.

- (7) (a) Except as provided in paragraph (b) of this subsection, if a person is required to register under federal law or the laws of another state or territory, or if the person has been convicted of an offense in a court of the United States, in a court martial of the United States Armed Forces, or under the laws of another state or territory that would require registration if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register within five (5) working days with the appropriate local probation and parole office in the county of residence, employment, vocation, or schooling. A person required to register under federal law or the laws of another state or territory shall be presumed to know of the duty to register in the Commonwealth. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.
- (b) No person shall be required to register under this subsection for a juvenile adjudication if such an adjudication in this Commonwealth would not create a duty to register. This paragraph shall be retroactive.
- (8) The registration form shall be a written statement signed by the person which shall include registrant information, including an up-to-date photograph of the registrant for public dissemination.
- (9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall not be considered an address.
- (10) (a) *If a registrant does not have an established and fixed residence of regular return, he or she shall report in person no less than every thirty (30) days to the local probation and parole office in the county in which he or she is present and register the approximate area where he or she can be located.*
- (b) *If the registrant changes his or her location to a new county, the person shall notify his or her current local probation and parole office of the new location on or before the date of the change of location.*
- (c) *The registrant shall also report in person to the appropriate local probation and parole office in the county of his or her new location no later than five (5) working days after the date of the change of location.*
- (11) (a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date of the change of address, with the appropriate local probation and parole office in the county in which he or she resides.
- (b) 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.
2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) working days after the date of the change of address.
- (c) If the:
1. Motor vehicle operator's license number or any other government-issued identification card number of any registrant changes; or
2. Registrant obtains for the first time a motor vehicle operator's license number or any other government-issued identification card number;
- the registrant shall register the change or addition no later than five (5) working days after the date of the change or the date of the addition, with the appropriate local probation and parole office in the county in which he or she resides.

- (d) 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.
2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection, that office shall forward this information as set forth under subsection (5) of this section.
- (e) 1. A registrant shall register the following information with the appropriate local probation and parole office no less than twenty-one (21) days before traveling outside of the United States:
- His or her passport number and country of issue;
 - The dates of departure, travel, and return; and
 - The foreign countries, colonies, territories, or possessions that the registrant will visit.
2. The registrant shall register the following information with the appropriate local probation and parole office no later than five (5) working days after the date of his or her return from traveling outside of the United States:
- The date he or she departed, traveled, and returned; and
 - The foreign countries, colonies, territories, or possessions that the registrant visited.
- ~~(12)~~~~(11)~~ Any person required to register under this section who knowingly violates any of the provisions of this section or prior law is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
- ~~(13)~~~~(12)~~ Any person required to register under this section or prior law who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
- ~~(14)~~~~(13)~~ (a) The cabinet shall verify the addresses, names, motor vehicle operator's license numbers, and government-issued identification card numbers of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under KRS 17.520(2), ~~and~~ at least once every calendar year for a person required to register under KRS 17.520(3), **and at least once every thirty (30) days for a person who does not have an established and fixed residence of regular return.**
- (b) If the cabinet determines that a person has:
- Moved without providing his or her new address;~~or~~
 - Failed to notify the local probation and parole office of his or her presence in a new county without an established and fixed residence of regular return; or***
 - A new name, motor vehicle operator's license number, or government-issued identification card number that he or she has not provided;
- to the appropriate local probation and parole office or offices as required under subsection ~~(11)~~~~(10)~~(a), (b), and (c) of this section, the cabinet shall notify the appropriate local probation and parole office of the new address, name, motor vehicle operator's license number, or government-issued identification card number used by the person. The office shall then forward this information as set forth under subsection (5) of this section. The cabinet shall also notify the appropriate court, Parole Board, and appropriate Commonwealth's attorney, sheriff's office, probation and parole office, corrections agency, and law enforcement agency responsible for the investigation of the report of noncompliance.
- (c) An agency that receives notice of the noncompliance from the cabinet under paragraph (a) of this subsection:
- Shall consider revocation of the parole, probation, postincarceration supervision, or conditional discharge of any person released under its authority; and
 - Shall notify the appropriate county or Commonwealth's Attorney for prosecution.
- ~~(15)~~ ***The provisions of subsections (10) and (14) of this section relating to registrants who do not have an established and fixed residence of regular return shall apply to any person required to register on or after the effective date of this section.***

➔Section 3. KRS 403.720 is amended to read as follows:

As used in KRS 403.715 to 403.785:

- (1) "Domestic animal" means a dog, cat, or other animal that is domesticated and kept as a household pet, but does not include animals normally raised for agricultural or commercial purposes;
- (2) "Domestic violence and abuse" means:
 - (a) Physical injury, serious physical injury, stalking, sexual abuse, strangulation, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, strangulation, or assault between family members or members of an unmarried couple; or
 - (b) Any conduct prohibited by KRS 525.125, 525.130, 525.135, or 525.137, or the infliction of fear of such imminent conduct, taken against a domestic animal when used as a method of coercion, control, punishment, intimidation, or revenge directed against a family member or member of an unmarried couple who has a close bond of affection to the domestic animal;
- (3) "Family member" means a spouse, including a former spouse, a grandparent, a grandchild, a parent, ***an adult sibling***, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;
- (4) "Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 that was issued on the basis of domestic violence and abuse;
- (5) "Global positioning monitoring system" means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;
- (6) "Member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together;
- (7) "Order of protection" means an emergency protective order or a domestic violence order and includes a foreign protective order;
- (8) "Strangulation" refers to conduct prohibited by KRS 508.170 and 508.175, or a criminal attempt, conspiracy, facilitation, or solicitation to commit the crime of strangulation; and
- (9) "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property, including a domestic animal, of an individual protected by an order of protection.

➔Section 4. KRS 508.025 is amended to read as follows:

- (1) A person is guilty of assault in the third degree when the actor:
 - (a) Recklessly, with a deadly weapon or dangerous instrument, or intentionally causes or attempts to cause physical injury to:
 1. A state, county, city, or federal peace officer;
 2. An employee of a detention facility, or state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender;
 3. ***A healthcare provider as defined in KRS 311.821, if the event occurs while the healthcare provider is providing medical care in an emergency room of a hospital;***
 4. An employee of the Department for Community Based Services employed as a social worker to provide direct client services, if the event occurs while the worker is performing job-related duties;
 - 5.~~[4.]~~ Paid or volunteer emergency medical services personnel certified or licensed pursuant to KRS Chapter 311A, if the event occurs while personnel are performing job-related duties;
 - 6.~~[5.]~~ A paid or volunteer member of an organized fire department, if the event occurs while the member is performing job-related duties;
 - 7.~~[6.]~~ Paid or volunteer rescue squad personnel affiliated with the Division of Emergency Management of the Department of Military Affairs or a local disaster and emergency services organization

pursuant to KRS Chapter 39F, if the event occurs while personnel are performing job-related duties;

~~8.7.~~ A probation and parole officer;

~~9.8.~~ A transportation officer appointed by a county fiscal court or legislative body of a consolidated local government, urban-county government, or charter government to transport inmates when the county jail or county correctional facility is closed while the transportation officer is performing job-related duties;

~~10.9.~~ A public or private elementary or secondary school or school district classified or certified employee, school bus driver, or other school employee acting in the course and scope of the employee's employment; or

~~11.10.~~ A public or private elementary or secondary school or school district volunteer acting in the course and scope of that person's volunteer service for the school or school district;

- (b) Being a person confined in a detention facility, or a juvenile in a state residential treatment facility or state staff secure facility for residential treatment which provides for the care, treatment, or detention of a juvenile charged with or adjudicated delinquent because of a public offense or as a youthful offender, inflicts physical injury upon or throws or causes feces, or urine, or other bodily fluid to be thrown upon an employee of the facility; or
 - (c) Intentionally causes a person, whom the actor knows or reasonably should know to be a peace officer discharging official duties, to come into contact with saliva, vomit, mucus, blood, seminal fluid, urine, or feces without the consent of the peace officer.
- (2) (a) For a violation of subsection (1)(a) of this section, assault in the third degree is a Class D felony, unless the offense occurs during a declared emergency as defined by KRS 39A.020 arising from a natural or man-made disaster, within the area covered by the emergency declaration, and within the area impacted by the disaster, in which case it is a Class C felony.
- (b) For a violation of subsection (1)(b) of this section, assault in the third degree is a Class D felony.
- (c) For violations of subsection (1)(c) of this section, assault in the third degree is a Class B misdemeanor, unless the assault is with saliva, vomit, mucus, blood, seminal fluid, urine, or feces from an adult who knows that he or she has a serious communicable disease and competent medical or epidemiological evidence demonstrates that the specific type of contact caused by the actor is likely to cause transmission of the disease or condition, in which case it is a Class A misdemeanor.
- (d) As used in paragraph (c) of this subsection, "serious communicable disease" means a non-airborne disease that is transmitted from person to person and determined to have significant, long-term consequences on the physical health or life activities of the person infected.

➔Section 5. KRS 532.100 is amended to read as follows:

- (1) As used in this section, "jail" means a "jail" or "regional jail" as defined in KRS 441.005.
- (2) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the Department of Corrections for the term of his or her sentence and until released in accordance with the law.
- (3) When a definite term of imprisonment is imposed, the court shall commit the defendant to a jail for the term of his or her sentence and until released in accordance with the law.
- (4) When a sentence of death is imposed, the court shall commit the defendant to the custody of the Department of Corrections with directions that the sentence be carried out according to law.
- (5) (a) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is sentenced to an indeterminate term of imprisonment of five (5) years or less, he or she shall serve that term in a jail in a county in which the fiscal court has agreed to house state prisoners; except that, when an indeterminate sentence of two (2) years or more is imposed on a Class D felon convicted of a sexual offense enumerated in KRS 197.410(1), or a crime under KRS 17.510~~((11) or (12))~~ **or (13)**, the sentence shall be served in a state institution. Counties choosing not to comply with the provisions of this paragraph shall be granted a waiver by the commissioner of the Department of Corrections.

- (b) The provisions of KRS 500.080(5) notwithstanding, a Class D felon who received a sentence of more than five (5) years for nonviolent, nonsexual offenses, but who currently has less than five (5) years remaining to be served, may serve the remainder of his or her term in a jail in a county in which the fiscal court has agreed to house state prisoners.
- (c)
 - 1. The provisions of KRS 500.080(5) notwithstanding, and except as provided in subparagraph 2. of this paragraph, a Class C or D felon with a sentence of more than five (5) years who is classified by the Department of Corrections as community custody shall serve that term in a jail in a county in which the fiscal court has agreed to house state prisoners if:
 - a. Beds are available in the jail;
 - b. State facilities are at capacity; and
 - c. Halfway house beds are being utilized at the contract level as of July 15, 2000.
 - 2. When an indeterminate sentence of two (2) years or more is imposed on a felon convicted of a sex crime, as defined in KRS 17.500, or any similar offense in another jurisdiction, the sentence shall be served in a state institution.
 - 3. Counties choosing not to comply with the provisions of this paragraph shall be granted a waiver by the commissioner of the Department of Corrections.
- (d) Any jail that houses state inmates under this subsection shall offer programs as recommended by the Jail Standards Commission. The Department of Corrections shall adopt the recommendations of the Jail Standards Commission and promulgate administrative regulations establishing required programs for a jail that houses state inmates under this subsection. The Department of Corrections shall approve programming offered by jails to state inmates for sentencing credits in accordance with KRS 197.045.
- (e) Before housing any female state inmate, a jail shall be certified pursuant to KRS 197.020.
- (f)
 - 1.
 - a. If a jail is at or over one hundred fifty percent (150%) capacity, the Department of Corrections may direct the jail to transfer a specified number of state prisoners to vacant beds at other designated jails or state institutions. As used in this paragraph, "capacity" means the capacity listed on the certificate of occupancy issued each year to the jail by the Department of Corrections.
 - b. The Department of Corrections shall choose which state prisoners are eligible for transfer based on the security level of the vacant bed at the receiving jail or state institution.
 - c. State prisoners who are approved for transfer to a Department of Corrections facility for necessary medical treatment and care pursuant to KRS 441.560 shall not be transferred to another jail.
 - d. State prisoners enrolled in a Department of Corrections approved program pursuant to KRS 197.045 shall not be transferred.
 - e. State prisoners awaiting trial in the county they are being housed shall not be transferred.
 - f. Jails that receive state prisoners pursuant to this subparagraph shall be responsible for the transportation of those prisoners to the jail.
 - 2. If the Department of Corrections directs the transfer of a state prisoner pursuant to subparagraph 1. of this paragraph, the jailer has fourteen (14) days to transfer the state prisoner. If the jailer refuses to release custody of the state prisoner to the receiving jail within fourteen (14) days, the department shall reduce the per diem for the jail for an amount equal to the per diem of that prisoner for each day the jailer refuses to comply with the direction.
 - 3. If the Department of Corrections directs the transfer of a state prisoner pursuant to subparagraph 1. of this paragraph, the jailer of the receiving jail shall accept the transfer and transport the state prisoner in accordance with subparagraph 1.f. of this paragraph. If, after receiving a copy of the direction, the jailer refuses to accept and transport the state prisoner, the Department of Corrections shall reduce the per diem for the receiving jail for an amount equal to the per diem of that prisoner for each day the jailer refuses to comply with the direction.
 - 4. If a jail has a vacant bed and has a Class C or Class D felon who, based on the Department of Corrections classification system, is eligible to be housed in that vacant bed, the department may

direct the jail to transfer the state prisoner to that bed. If the jailer refuses to transfer the state prisoner to the vacant bed, the Department of Corrections shall reduce the per diem for the jail for an amount equal to the per diem of that prisoner for each day the jailer refuses to comply with the direction.

5. The per diem reduced pursuant to subparagraph 2., 3., or 4. of this paragraph shall be enforced by withholding the amount from the per diem paid to the jail pursuant to KRS 431.215(2).
 6. If a jail that is at or over one hundred fifty percent (150%) capacity requests the transfer of a specified number of state prisoners, the Department of Corrections may, if vacant beds are available at other jails, direct the transfer in accordance with subparagraph 1. of this paragraph.
- (g) If a jail has vacant beds in an area of the jail usually reserved for state prisoners, the jail may house county prisoners in that area.
- (6) The jailer of a county in which a Class D felon or a Class C felon is incarcerated may request the commissioner of the Department of Corrections to incarcerate the felon in a state corrections institution if the jailer has reasons to believe that the felon is an escape risk, a danger to himself or herself or other inmates, an extreme security risk, or needs protective custody beyond that which can be provided in a jail. The commissioner of the Department of Corrections shall evaluate the request and transfer the inmate if he or she deems it necessary. If the commissioner refuses to accept the felon inmate, and the Circuit Judge of the county that has jurisdiction of the offense charged is of the opinion that the felon cannot be safely kept in a jail, the Circuit Judge, with the consent of the Governor, may order the felon transferred to the custody of the Department of Corrections.
- (7) (a) Class D felons and Class C felons serving their time in a jail shall be considered state prisoners, and, except as provided in subsection (5)(f) of this section, the Department of Corrections shall pay the jail in which the prisoner is incarcerated a per diem amount determined according to KRS 431.215(2). For other state prisoners and parole violator prisoners, the per diem payments shall also begin on the date prescribed in KRS 431.215(2), except as provided in subsection (5)(f) of this section.
- (b) 1. The per diem amount paid to the jail shall be increased by two dollars (\$2) per day of program attendance for those inmates enrolled in and attending evidence-based programs approved by the department and that do not require instructors to have completed any postsecondary education.
2. The per diem amount paid to the jail shall be increased by ten dollars (\$10) per day of program attendance for those inmates enrolled in and attending evidence-based programs approved by the department and that require instructors to have completed particular postsecondary courses.
- (c) Any amount beyond the base per diem paid under paragraph (a) of this subsection that is paid under a contract to the jail for an inmate's attendance at an evidence-based program shall be credited toward the ten dollars (\$10) increase in per diem required under paragraph (b) of this subsection.
- (8) State prisoners, excluding the Class D felons and Class C felons qualifying to serve time in jails, shall be transferred to the state institution within forty-five (45) days of final sentencing.
- (9) (a) Class D felons eligible for placement in a jail may be permitted by the warden or jailer to participate in any approved community work program or other form of work release with the approval of the commissioner of the Department of Corrections.
- (b) The authority to release an inmate to work under this subsection may be exercised at any time during the inmate's sentence, including the period when the court has concurrent authority to permit work release pursuant to KRS 439.265.
- (c) The warden or jailer may require an inmate participating in the program to pay a fee to reimburse the warden or jailer for the cost of operating the community work program or any other work release program. The fee shall not exceed the lesser of fifty-five dollars (\$55) per week or twenty percent (20%) of the prisoner's weekly net pay earned from the community work program or work release participation. In addition, the inmate may be required to pay for any drug testing performed on the inmate as a requirement of the community work program or work release participation.
- (d) This subsection shall not apply to an inmate who:
1. Is not eligible for work release pursuant to KRS 197.140;

2. Has a maximum or close security classification as defined by administrative regulations promulgated by the Department of Corrections;
3. Is subject to the provisions of KRS 532.043; or
4. Is in a reentry center as defined in KRS 441.005.

➔Section 6. Section 2 of this Act takes effect January 1, 2024.

Signed by Governor March 27, 2023.

CHAPTER 110

(SB 9)

AN ACT relating to hazing.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context requires otherwise:

- (1) *"Hazing" means a direct action which substantially endangers the physical health of a minor or student for the purpose of recruitment, initiation into, affiliation with, or enhancing or maintaining membership or status within any organization, including but not limited to actions which coerce or force a minor or a student to:*
 - (a) *Violate federal or state criminal law;*
 - (b) *Consume any food, liquid, alcoholic liquid, drug, tobacco product, or other controlled substance which subjects the minor or student to a risk of serious physical injury;*
 - (c) *Endure brutality of a physical nature, including whipping, beating or paddling, branding, or exposure to the elements;*
 - (d) *Endure brutality of a sexual nature; or*
 - (e) *Endure any other activity that creates a reasonable likelihood of serious physical injury to the minor or student;*
- (2) *"Organization":*
 - (a) *Means a number of persons who are associated with a school or postsecondary education institution and each other, including a student organization, fraternity, sorority, association, corporation, order, society, corps, club, or similar group; and*
 - (b) *Includes any student organization registered pursuant to the policies of the school or postsecondary education institution at any time during the previous five (5) years; and*
- (3) *"Student" means an individual enrolled in a public or private school or postsecondary program of study.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of hazing in the first degree when he or she intentionally or wantonly engages in an act of hazing that results in serious physical injury or death to a minor or student.*
- (2) *It shall be a defense under this section that the act was part of reasonable and customary:*
 - (a) *Interscholastic or intercollegiate athletic practices, competitions, or events;*
 - (b) *Law enforcement training; or*
 - (c) *Military training.*
- (3) *Hazing in the first degree is a Class D felony. Any sentence imposed on a defendant under this section shall run concurrently with any sentence imposed under KRS 508.060 or 508.070 arising from the same act or occurrence.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

- (1) *A person is guilty of hazing in the second degree when he or she recklessly engages in an act of hazing.*
- (2) *It shall be a defense under this section that the act was part of reasonable and customary:*
 - (a) *Interscholastic or intercollegiate athletic practices, competitions, or events;*
 - (b) *Law enforcement training; or*
 - (c) *Military training.*
- (3) *Hazing in the second degree is a Class A misdemeanor. Any sentence imposed on a defendant under this section shall run concurrently with any sentence imposed under KRS 508.060 or 508.070 arising from the same act or occurrence.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 4 of this Act shall be construed to create or imply a new cause of action against any educational institution.

➔Section 5. This Act may be cited as Lofton's Law.

Signed by Governor March 27, 2023.

CHAPTER 111

(HB 262)

AN ACT relating to driving under the influence and declaring an emergency.

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

➔Section 1. KRS 189A.103 is amended to read as follows:

The following provisions shall apply to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle in this Commonwealth:

- (1) He or she has given his or her consent to one (1) or more tests of his or her blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability, if an officer has reasonable grounds to believe that a violation of KRS 189A.010(1) or 189.520(1) has occurred;
- (2) Any person who is dead, unconscious, or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section, and the test may be given;
- (3)
 - (a) The breath, blood, and urine tests administered pursuant to this section shall be administered at the direction of a peace officer having reasonable grounds to believe the person has committed a violation of KRS 189A.010(1) or 189.520(1).
 - (b) Tests of the person's breath, blood, or urine, to be valid pursuant to this section, shall have been performed according to the administrative regulations promulgated by the secretary of the Justice and Public Safety Cabinet, and shall have been performed, as to breath tests, only after a peace officer has had the person under personal observation at the location of the test for a minimum of twenty (20) minutes.
 - (c) All breath tests shall be administered by a peace officer holding a certificate as an operator of a breath analysis instrument, issued by the secretary of the Justice and Public Safety Cabinet or his or her designee;
- (4) A breath test shall consist of a test which is performed in accordance with the *standard operating procedures* ~~manufacturer's instructions or instructions~~ adopted by the Department of Criminal Justice Training ~~and approved by the manufacturer~~ for the use of the instrument. The secretary of the Justice and Public Safety Cabinet shall keep available for public inspection and provide, upon request and without charge,

copies of *the standard operating procedures* ~~[these manufacturer's instructions or instructions]~~ adopted by the Department of Criminal Justice Training ~~[and approved by the manufacturer]~~ for all models of breath testing devices in use by the Commonwealth of Kentucky;

- (5) When the preliminary breath test, breath test, or other evidence gives the peace officer reasonable grounds to believe there is impairment by a substance which is not subject to testing by a breath test, then blood or urine tests, or both, may be required in addition to a breath test, or in lieu of a breath test;
- (6) Only a physician, registered nurse, phlebotomist, medical technician, or medical technologist not otherwise prohibited by law can withdraw any blood of any person submitting to a test under this section; and
- (7) After the person has submitted to all alcohol concentration tests and substance tests requested by the officer, the person tested shall be permitted to have a person listed in subsection (6) of this section of his or her own choosing administer a test or tests in addition to any tests administered at the direction of the peace officer. Tests conducted under this section shall be conducted within a reasonable length of time. Provided, however, the nonavailability of the person chosen to administer a test or tests in addition to those administered at the direction of the peace officer within a reasonable time shall not be grounds for rendering inadmissible as evidence the results of the test or tests administered at the direction of the peace officer.

➔Section 2. KRS 189A.110 is amended to read as follows:

Any person who is arrested for a violation of KRS 189A.010 ~~[and who, upon breath analysis testing, shows an alcohol concentration reading of .15 percent or more]~~ shall be detained in custody at least ~~four (4)~~ **six (6)** hours following his or her arrest.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 507 IS CREATED TO READ AS FOLLOWS:

(1) *A person is guilty of vehicular homicide when:*

- (a) *He or she causes the death of another; and*
- (b) *The death results from the person's operation of a motor vehicle, including but not limited to boats and airplanes, under the influence of alcohol, a controlled substance, or other substance which impairs driving ability as described in KRS 189A.010.*

(2) *Vehicular homicide is a Class B felony.*

➔Section 4. This Act may be cited as Lily's Law.

➔Section 5. Whereas driving under the influence of alcohol or any substance which impairs one's ability to drive a motor vehicle presents a danger to public safety, an emergency is declared to exist, and this Act takes effect upon passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 27, 2023.

CHAPTER 112

(HCR 5)

A CONCURRENT RESOLUTION expressing support for the Jones Act and commemorating its centennial anniversary.

WHEREAS, the Commonwealth's 1,600-mile-long network of navigable waterways, including access to two of the nation's largest rivers, the Mississippi River and the Ohio River, makes it a critical hub in the transportation system of the nation; and

WHEREAS, the current global pandemic has demonstrated the critical importance of maintaining resilient domestic industries and transportation services to the citizens and workforce of the Commonwealth; and

WHEREAS, the Merchant Marine Act of 1920, also known as the Jones Act and codified in Title 46 of the United States Code, requires that vessels carrying cargo between locations in the United States be owned by American companies, crewed by American mariners, and built in American shipyards; and

WHEREAS, the United States' ability to project and deploy forces globally, and supply and maintain military installations domestically, depends on the civilian fleet of the Jones Act vessels and mariners; and

WHEREAS, mariners aboard Jones Act vessels strengthen homeland security as added eyes and ears monitoring the nation's 95,000 miles of shoreline and 25,000 miles of navigable inland waterways; and

WHEREAS, the Commonwealth is home to 20,730 maritime jobs supported by the Jones Act, the fifth-highest per capita among all states, that generate \$1.25 billion in income for workers; and

WHEREAS, maritime industry jobs create ladders of opportunity through high-paying jobs and careers that offer significant advancement without generally necessitating advanced formal education and extensive student loans; and

WHEREAS, the more than 40,000-vessel-strong Jones Act fleet supports nearly 650,000 high-paying jobs and over \$154 billion in economic output nationally, and \$5.1 billion to the economy of the Commonwealth;

NOW, THEREFORE,

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

➔Section 1. The General Assembly affirms its support for the Jones Act and celebrates its centennial anniversary.

➔Section 2. The General Assembly encourages the United States Congress to maintain the provisions of the Jones Act which have fostered a strong domestic maritime industry that is critical to the Commonwealth's and the nation's economic prosperity and national security.

➔Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the members of Kentucky's Congressional Delegation.

Signed by Governor March 27, 2023.

CHAPTER 113

(HCR 59)

A CONCURRENT RESOLUTION recognizing the Kentucky College of Art and Design.

WHEREAS, the Kentucky College of Art and Design achieved licensure with Kentucky's Council on Postsecondary Education within only one year of becoming an independent college of art and design; and

WHEREAS, the demand for Kentucky College of Art and Design graduates is proven by the success of the first cohort of graduates in achieving employment within arts-related fields; and

WHEREAS, the Kentucky College of Art and Design meets a critical need in Kentucky as the Commonwealth's only independent college of art and design offering an undergraduate degree; and

WHEREAS, the excellence of the Kentucky College of Art and Design is proven by the success of program graduates in securing postgraduate opportunities in prestigious, international arts programs, including acceptances into the Royal College of Art and the Goldsmiths' College in London, California Institute of the Arts, and Rutgers University, and an upcoming interview at the School of the Art Institute in Chicago; and

WHEREAS, the Commonwealth is enriched by the incredible caliber of the Kentucky College of Art and Design and its graduates and will directly benefit from the future excellence and operation of the Kentucky College of Art and Design;

NOW, THEREFORE,

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

➔Section 1. The General Assembly hereby recognizes the indispensable contribution of the Kentucky College of Art and Design to the Commonwealth and expresses support for the continued operation of the Kentucky

College of Art and Design as a preeminent, independent college of art and design graduating competitive, highly skilled artists.

➔Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to President Moira Scott Payne, the Kentucky College of Art and Design, 505 West Ormsby Avenue, Louisville, Kentucky 40203.

Signed by Governor March 27, 2023.

CHAPTER 114

(SB 190)

AN ACT relating to actions of government officials.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) *This section applies to:*

- (a) *Cities;*
- (b) *Counties;*
- (c) *Consolidated local governments;*
- (d) *Urban-county governments;*
- (e) *Charter county governments;*
- (f) *Unified local governments;*
- (g) *Program cabinets, departments, organizational units, and administrative bodies of the Commonwealth; and*
- (h) *Boards, commissions, committees, and other administrative bodies created by the entities listed in paragraphs (a) to (g) of this subsection.*

(2) *An entity named in subsection (1) of this section shall not enter into a contract, agreement, or consent decree that gives any person, agency, or authority subpoena power not specifically or explicitly allowed by the Kentucky Revised Statutes.*

➔Section 2. KRS 83A.030 is amended to read as follows:

(1) Each city organized and governed under the mayor-council plan shall have a mayor and each shall have a legislative body composed of not less than six (6) nor more than twelve (12) members as prescribed by ordinance. *An ordinance amending the number of legislative body members shall be:*

- (a) *Enacted and filed with the county clerk of any county or counties in which the city is located by no later than the first Wednesday after the first Monday in November of the year preceding the year in which the legislative offices will appear on the ballot; and*
- (b) *Crafted in such a manner that the amended number of legislative body members becomes effective on January 1 of the year following the election of the number of legislative body members specified in the amending ordinance.*

(2) Each city organized and governed under the commission plan or city manager plan shall have a legislative body composed of a mayor and four (4) commissioners.

➔Section 3. KRS 83A.040 is amended to read as follows:

(1) A mayor shall be elected by the voters of each city at a regular election. A candidate for mayor shall be a resident of the city for not less than one (1) year prior to his or her election. His *or her* term of office shall begin on the first day of January following his *or her* election and shall be for four (4) years and until his *or her* successor qualifies. If a person is elected or appointed as mayor in response to a vacancy and serves less

than four (4) calendar years, then that period of service shall not be considered for purposes of re-election a term of office. A mayor shall be at least twenty-one (21) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his *or her* term of office.

- (2) If a vacancy occurs in the office of mayor, the following provisions shall apply:
 - (a) The legislative body of the city shall fill the vacancy within thirty (30) days;~~[-]~~
 - (b) A member of the legislative body in any city organized and governed under the commission plan as provided by KRS 83A.140 or city manager plan as provided by KRS 83A.150 may vote for himself;~~[-]~~
 - (c) A member of the legislative body in any city organized and governed under the mayor-council plan as provided by KRS 83A.130 and in any city of the first class organized under the mayor-alderman plan as provided by KRS Chapter 83 shall not vote for himself; **and**~~[-]~~
 - (d) The legislative body shall elect from among its members an individual to preside over meetings of the legislative body during any vacancy in the office of mayor in accordance with the provisions of KRS 83A.130 to 83A.150.
- (3) When voting to fill the vacancy created by a resignation of a mayor the resigning mayor shall not vote on his *or her* successor.
- (4) Each legislative body member shall be elected at large by the voters of each city at a regular election. A candidate for a legislative body shall be a resident of the city for not less than one (1) year prior to his or her election. His *or her* term of office shall begin on the first day of January following his *or her* election and shall be for two (2) years, except as provided by KRS 83A.050. A member shall be at least eighteen (18) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his *or her* term of office.
- (5) If one (1) or more vacancies on a legislative body occur in a way that one (1) or more members remain seated, the remaining members shall within thirty (30) days fill the vacancies one (1) at a time, giving each new appointee reasonable notice of his *or her* selection as will enable him *or her* to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the Governor shall appoint qualified persons to fill the vacancies sufficient to constitute a quorum. Remaining vacancies shall be filled as provided in this section.
- (6) If for any reason, any vacancy in the office of mayor or the legislative body is not filled within thirty (30) days after it occurs, the Governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.
- (7) No vacancy by reason of voluntary resignation in the office of mayor or on a legislative body shall occur unless a written resignation which specifies a resignation date is tendered to the legislative body. ***The resignation may be submitted through electronic mail if it originates from the official's electronic mail address and includes also the official's handwritten signature.*** The resignation shall be effective at the next regular or special meeting of the city legislative body occurring *on or* after the date specified in the written letter of resignation. ***If a resignation date is not specified, the written resignation shall be deemed to become effective at the first regular or special meeting of the legislative body occurring on or after its receipt.***
- (8) Pursuant to KRS 118.305(7), if a vacancy occurs which is required by law to be filled temporarily by appointment, the legislative body or the Governor, whichever is designated to make the appointment, shall immediately notify in writing both the county clerk and the Secretary of State of the vacancy.
- (9) Except in cities of the first class, any elected officer, in case of misconduct, incapacity, or willful neglect in the performance of the duties of his *or her* office, may be removed from office by a unanimous vote of the members of the legislative body exclusive of any member to be removed, who shall not vote in the deliberation of his *or her* removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, shall have the right to appeal to the Circuit Court of the county and the appeal shall be on the record. No officer so removed shall be eligible to fill the office vacated before the expiration of the term to which originally elected.
- (10) Removal of an elected officer in cities of the first class shall be governed by the provisions of KRS 83.660.
➔Section 4. KRS 83A.045 is amended to read as follows:
 - (1) Except as provided in KRS 83A.047, partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

- (a) A candidate for party nomination to city office shall file his or her nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the first Friday following the first Monday in January before the day fixed by KRS Chapter 118 for holding a primary for the office sought. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;
 - (b) An independent candidate for nomination to city office shall not participate in a primary, but shall file his or her nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the first Tuesday after the first Monday in June before the day fixed by KRS Chapter 118 for holding a regular election for the office. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed; and
 - (c) A candidate for city office who is defeated in a partisan primary shall be ineligible as a candidate for the same office in the regular election. However, if a vacancy occurs in the party nomination for which he or she was an unsuccessful candidate in the primary, his or her name may be placed on the ballot for the regular election as a candidate of that party if he or she has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.
- (2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions, regardless of the form of government or classification of the city:
- (a) A candidate for city office shall file his or her nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the first Friday following the first Monday in January before the day fixed by KRS Chapter 118 for holding a primary for nominations for the office. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;
 - (b) Any city of the home rule class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:
 1. A city may forgo conducting a nonpartisan primary for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the first Tuesday after the first Monday in June before the day fixed by KRS Chapter 118 for holding a regular election for the office. Signatures for nomination papers shall not be affixed on the document to be filed prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot;
 2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;
 3. If a city does not conduct a primary pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121;
 4. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected;

5. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121;
 6. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled by write-in voting; and
 7. At the regular election, the voters shall be instructed to vote for one (1) candidate, except when there is more than one (1) candidate for which voters may vote, the instruction "vote for up to candidates" shall be used on the ballot; and
- (c) A candidate for city office who is defeated in a nonpartisan primary shall be ineligible as a candidate for the same office in the regular election.

(3) ***Any city enacting an ordinance eliminating the nonpartisan primary as authorized by subsection (2)(b) of this section or enacting an ordinance that repeals a previously enacted ordinance that eliminated the nonpartisan primary authorized by subsection (2)(b) of this section shall file the ordinance with the county clerk of the county or counties in which the city is located no later than the first Wednesday after the first Monday in November of the year preceding the year in which city elections are held.***

➔Section 5. KRS 83A.100 is amended to read as follows:

- (1) The legislative body of a city may by ordinance divide the city into wards by either of the following methods:
 - (a) The city may create the same number of wards as the number of legislative body members. Wards shall be as nearly equal in population as practicable and their boundaries shall be fixed by the ordinance: or
 - (b) The city may establish a hybrid ward system for the conduct of its legislative body elections. A city acting under this paragraph shall provide in the ordinance that a specific number of legislative body seats shall be subject to the ward system and that a specific number of legislative body seats shall be elected at large within the entire city without representing a particular ward. The wards created under this paragraph shall be as nearly equal in population as practicable and their boundaries shall be fixed by ordinance.
- (2) The populations of wards shall be reviewed as necessary to ensure that populations are as nearly equal as practicable, but the populations of wards shall be reviewed for equalization at least as often as each regular federal census.
- (3) Wards may be abolished by repeal of the ordinance creating them. No creation, alteration or abolition of wards shall occur ***later than the first Wednesday after the first Monday in November of the year preceding the year in which the city legislative offices will appear on the ballot***~~within two hundred forty (240) days preceding a regular election~~.
- (4) If a city is divided into wards, legislative body members shall be nominated and elected in the following manner:
 - (a) Members shall be elected in the regular November election at large, but each candidate shall reside in the ward he ***or she*** seeks to represent and shall be elected in such a manner that each ward is equally represented on the legislative body. The names shall be presented in the election to show for which ward each candidate is seeking election and voters shall be instructed to "vote for one candidate in each ward." The candidate receiving the highest number of votes cast in each ward shall be deemed to be elected from such ward;
 - (b) Persons seeking the nomination of a political party for the office of legislative body member where a primary election is required for the political party, shall be voted upon exclusively by the eligible voters of the ward in which the person resides and seeks to represent;
 - (c) Except as provided by paragraph (d) of this subsection, persons seeking nomination for the office of legislative body member in a nonpartisan election where a primary is conducted pursuant to KRS 83A.170 shall be voted upon at large by the voters of the city, and the two (2) candidates receiving the highest number of votes cast in each ward shall be deemed to be nominated from that ward; and
 - (d) The city may provide specifically in the ordinance required by subsection (1) of this section that persons seeking nomination for the office of legislative body member in a nonpartisan primary conducted pursuant to KRS 83A.170 shall be voted upon exclusively by the eligible voters of the ward

in which the person resides and seeks to represent. The two (2) candidates receiving the highest number of votes cast in each ward shall be deemed to be nominated from the ward.

- (5) Any city enacting or amending an ordinance to establish or abolish wards, modify ward boundaries, or establish the manner of elections under subsection (4) of this section shall be completed within the time specified by subsection (3) of this section, and the city shall forward a copy of the ordinance to the county clerk or county clerks of the county or counties in which the city is located.

Signed by Governor March 27, 2023.

CHAPTER 115

(HB 157)

AN ACT relating to urban search and rescue and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

- (1) *The Division of Emergency Management shall establish the Kentucky Urban Search and Rescue Program.*
- (2) *The Kentucky Urban Search and Rescue Program shall develop, coordinate, respond to, and maintain the Commonwealth's efforts toward providing resources to locate and extricate victims entrapped by man-made or natural disasters as well as conducting other operations within the boundaries of the Commonwealth or in coordinated response with other states or the federal government. This program shall function in addition to and shall not supplant other disaster and emergency response efforts in this chapter.*
- (3) *The director of the Division of Emergency Management shall employ an individual to assist with the administrative requirements associated with the establishment and maintenance of the Kentucky Urban Search and Rescue Program who shall report directly to the director. The director shall employ other personnel to assist in the operations of the program including personnel overseeing urban search and rescue operations, planning, and logistics. In addition, the division shall provide technical, clerical, and administrative assistance for the program, together with necessary office space and facilities that shall include necessary training facilities and warehouses for equipment, and personnel, and shall provide any other services and support necessary for the program to perform its functions.*
- (4) (a) *The division shall develop policies and procedures for the following:*
1. *Organization and decision-making processes to establish lines of authority and control, goals, and objectives required to accomplish missions of the program response teams;*
 2. *Membership of the response teams;*
 3. *Staffing, in the administrative capacities of the program and of the response teams themselves;*
 4. *Participation and qualification requirements of response team members, including but not limited to training, meeting times, skills and abilities, removals, and resignations;*
 5. *Uniforms and equipment;*
 6. *Discipline and professional conduct of response teams;*
 7. *Operations of the division in relation to response teams, including but not limited to mobilization, deployment, and bases of operation; and*
 8. *Any other issues concerning the operation of the program.*
- (b) *The division shall promulgate administrative regulations in accordance with KRS Chapter 13A for the following:*
1. *Accidents and injuries of response team members, who shall be covered by workers' compensation benefits paid by the division when responding to, performing, or returning from urban search and rescue operations that are authorized by the division and when those individuals have registered for benefits as required by the division;*

2. *Procedures for the reimbursement of agencies participating in the program for expenses related to response team deployment; and*
 3. *Any other issues concerning the operation of the program.*
- (5) (a) *There is hereby established in the State Treasury a restricted fund to be known as the Kentucky Urban Search and Rescue Program fund.*
- (b) *The fund shall consist of moneys received from grants, gifts, state appropriations, and federal funds.*
 - (c) *The fund shall be administered by the division.*
 - (d) *Amounts in the fund shall be used only for the administration of the program.*
 - (e) *Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.*
 - (f) *Any interest earnings of the fund shall become a part of the fund and shall not lapse.*
 - (g) *Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.*

➔Section 2. The Division of Emergency Management shall make a report to the Interim Joint Committee on Appropriations and Revenue prior to December 1, 2023, that contains draft language of the policies procedures and administrative regulations pertaining to the operations of the urban search and rescue program set out in Section 1 of this Act.

➔Section 3. The Division of Emergency Management shall only be required to provide for the staffing, technical, clerical, administrative assistance, office space, and facilities of the Kentucky Urban Search and Rescue Program, all as set out in subsection (3) of Section 1 of this Act, when moneys are made available in the restricted fund as set out in subsection (5) of Section 1 of this Act. The provisions in subsection (3) of Section 1 of this Act may be phased in by the Division as funding is made available.

Signed by Governor March 28, 2023.

CHAPTER 116

(HB 448)

AN ACT relating to government agencies, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. 2022 Kentucky Acts Chapter 183, Section 6, at page 1099, is amended to read as follows:

There is hereby appropriated to the Council on Postsecondary Education General Fund moneys in the amount of \$1,500,000 in fiscal year 2022-2023 for the costs incurred by the council in carrying out its duties described in Sections 1 to 3 of this Act. *Notwithstanding KRS 45.229, any portion of these funds that have not been expended by the end of fiscal year 2022-2023 shall not lapse and shall carry forward into fiscal year 2023-2024.*

➔Section 2. 2022 Kentucky Acts Chapter 199, Part I, Operating Budget, A. General Government, 9. Department for Local Government, (11) Community Development Projects, at pages 1639 to 1640, as amended by 2022 Kentucky Acts Chapter 239, is further amended to read as follows:

(11) Community Development Projects: Included in the above General Fund appropriation are the following one-time allocations for the 2022-2024 fiscal biennium:

- (a) \$3,500,000 in each fiscal year to the Boone's Ridge Appalachian Wildlife Foundation for Boone's Ridge in Bell County;
- (b) \$15,000,000 in each fiscal year to the Todd County Fiscal Court for the natural gas pipeline project;
- (c) \$200,000 in fiscal year 2022-2023 to the United Methodist Mountain Mission to support operations;
- (d) \$400,000 in each fiscal year to the Kentucky Pilots Association Education Foundation;

- (e) \$2,000,000 in fiscal year 2022-2023 to the Paducah Symphony;
- (f) \$4,300,000 in fiscal year 2022-2023 to the Louisville Orchestra;
- (g) \$100,000 in fiscal year 2022-2023 to the Hickman County Fiscal Court for the Civil War Days;
- (h) \$2,500,000 in fiscal year 2022-2023 to the Paintsville High School STEM Program;
- (i) \$10,000,000 in each fiscal year to the Lincoln County Fiscal Court for the natural gas pipeline project;
- (j) \$200,000 in each fiscal year to the Backroads of Appalachia in Harlan, Kentucky, to support economic development;
- (k) \$1,500,000 in each fiscal year to the Russell County Regional Agribusiness Training Facility;
- (l) \$750,000 in fiscal year 2022-2023 to the *City of Lancaster for the fire department substation*~~[Garrard County Fiscal Court for the Garrard County Emergency Medical Services and Crescent Spring Fire Department]~~;
- (m) \$500,000 in fiscal year 2023-2024 to the Fern Creek Community Center in Louisville, Kentucky;
- (n) \$750,000 in fiscal year 2023-2024 to the Hart County Chamber of Commerce;
- (o) \$300,000 in fiscal year 2023-2024 to the City of Greensburg for beautification projects;
- (p) \$20,000 in fiscal year 2022-2023 to the City of Wilmore for the Downtown Greenstage;
- (q) \$6,000 in fiscal year 2022-2023 to the Jessamine County Fiscal Court for the High Bridge Firehouse;
- (r) \$50,000 in fiscal year 2022-2023 to the Jessamine County Fiscal Court for land acquisition at the High Bridge boat ramp;
- (s) \$1,400,000 in fiscal year 2022-2023 to the city of Williamsburg for renovation and expansion of the Kentucky Splash Waterpark and Campground;
- (t) \$10,000,000 in fiscal year 2022-2023 to the Louisville Zoo for construction of Kentucky trails habitat. ***Notwithstanding KRS 45.229, any portion of these funds that have not been expended by the end of fiscal year 2022-2023 shall not lapse and shall carry forward into fiscal year 2023-2024;***
- (u) \$2,500,000 in fiscal year 2022-2023 to the City of Corbin for the Corbin Arena and Corbin Center;
- (v) \$1,000,000 in fiscal year 2022-2023 to the City of Barbourville for renovations to the Barbourville City Hall;
- (w) \$1,250,000 in fiscal year 2022-2023 to the Jackson County Fiscal Court for a new building for the Jackson County Emergency Medical Services;
- (x) \$400,000 in fiscal year 2022-2023 to the KCEOC Community Action Partnership for a vocational and technical training facility;
- (y) \$750,000 in fiscal year 2022-2023 to the City of Booneville for a city revitalization project;
- (z) \$4,250,000 in fiscal year 2022-2023 to the Manchester/Clay County Tourism Commission, Elk Hill Regional Industrial Authority, and Volunteers of America for land acquisition, renovations, upgrades, and Elk Hill Spec Building and Housing;
- (aa) \$500,000 in fiscal year 2022-2023 to the Scott United Ministries A.M.E.N. House for acquisition or construction of a new building;
- (ab) \$250,000 in fiscal year 2022-2023 to the Monroe County Fiscal Court to allow the Monroe County Medical Center to begin offering emergency medical services and paramedic training;
- (ac) \$600,000 in fiscal year 2022-2023 to the Housing Authority of Bowling Green to create a small business incubator for low income, minority, and women-owned businesses in collaboration with the city of Bowling Green;
- (ad) \$1,000,000 in fiscal year 2022-2023 to the City of Somerset Parks and Recreation for upgrades to youth sports facilities;
- (ae) \$3,000,000 in fiscal year 2022-2023 to the Christian County Board of Education for the Fort Campbell Industrial Training Partnership;

(af) \$3,000,000 in fiscal year 2022-2023 to the Barren County Family YMCA Foundation for a swimming pool facility, equipment, and HVAC and building repair;

(ag) \$1,000,000 in fiscal year 2022-2023 to the Green County Fiscal Court for industrial park site development;

(ah) \$1,000,000 in fiscal year 2022-2023 to the Kentucky Science and Technology Corporation for the VALOR program;

(ai) \$1,000,000 in fiscal year 2022-2023 to USA Cares to support veterans and their families;

(aj) \$650,000 in fiscal year 2022-2023 to Bellewood and Brooklawn to support the Avenues to Success pilot program;

(ak) \$5,000,000 in fiscal year 2022-2023 to the Bell County Fiscal Court to support industrial projects;

(al) \$1,000,000 in fiscal year 2023-2024 to the Green County Fiscal Court for the American Legion Park Trail Development Project; and

(am) \$195,000 in fiscal year 2022-2023 to Old Bardstown Village, Inc. for flood damage repairs.

➔Section 3. 2022 Kentucky Acts Chapter 199, Part I, Operating Budget, A. General Government, 28. Teachers' Retirement System, at pages 1652 to 1653, is amended to read as follows:

28. TEACHERS' RETIREMENT SYSTEM

	2021-22	2022-23	2023-24
General Fund	479,242,300	722,100,400 [761,425,500]	728,406,000 [767,731,100]
Restricted Funds	503,100	18,553,300	19,330,200
TOTAL	479,745,400	740,653,700 [779,978,800]	747,736,200 [787,061,300]

(1) **Debt Service:** Included in the above General Fund appropriation is \$17,365,500 in fiscal year 2022-2023 for debt service on previously issued bonds.

(2) **Dependent Subsidy for All Retirees under age 65:** Pursuant to KRS 161.675(4), health insurance supplement payments made by the retirement system shall not exceed the amount of the single coverage insurance premium.

(3) **Retiree Health Insurance:** Pursuant to KRS 161.550(2)(b) and notwithstanding any statute to the contrary, included in the above General Fund appropriation is \$71,200,000 in fiscal year 2022-2023 and \$77,700,000 in fiscal year 2023-2024 to support the state's contribution for the cost of retiree health insurance for members not eligible for Medicare who have retired on or after July 1, 2010. Notwithstanding KRS 161.675, the Teachers' Retirement System Board of Trustees shall provide health insurance supplement payments towards the cost of the single coverage insurance premium based on age and years of service credit of eligible recipients of a retirement allowance, the cost of which shall be paid from the Medical Insurance Fund. Notwithstanding KRS 161.675, the Teachers' Retirement System Board of Trustees shall authorize eligible recipients of a retirement allowance from the Teachers' Retirement System who are less than age 65 to be included in the state-sponsored health insurance plan that is provided to active teachers and state employees under KRS 18A.225. Notwithstanding KRS 161.675(4)(a), the contribution paid by retirees who are less than age 65 who qualify for the maximum health insurance supplement payment for single coverage shall be no more than the sum of (a) the employee contribution paid by active teachers and state employees for a similar plan, and (b) the standard Medicare Part B premium as determined by the Centers for Medicare and Medicaid Services. Notwithstanding KRS 161.675(4)(a), the contribution paid by retirees who are less than age 65 who do not qualify for the maximum health insurance supplement payment for single coverage shall be determined by the same graduated formula used by the Teachers' Retirement System for Plan Year 2022.

(4) **Medical Insurance Fund Employee Contributions:** Notwithstanding KRS 161.540(1), the employee contribution to the Medical Insurance Fund shall not be changed in fiscal year 2022-2023 or fiscal year 2023-2024.

(5) **Amortized Benefits Payoff:** Included in the above General Fund appropriation is \$479,242,300 in fiscal year 2021-2022 to pay off the principal balance for past benefit enhancements. Notwithstanding KRS 45.229, any funds in excess of the principal balance shall lapse to the Budget Reserve Trust Fund Account (KRS 48.705).

(6) **Sick Leave Liability Reporting~~Payment~~:** ~~Included in the above General Fund appropriation is \$39,325,100 in each fiscal year to support the actuarial cost of sick leave benefits for new retirees.~~ The Teachers'

Retirement System shall provide a report on the cost of sick leave to the Public Pension Oversight Board no later than December 1, 2023.

(7) Actuarially Determined Employer Contribution: Included in the above General Fund appropriation is \$629,415,000 in fiscal year 2022-2023 and \$646,456,000 in fiscal year 2023-2024 to provide the full actuarially determined employer contribution. The Teachers' Retirement System shall provide a report on the actuarially determined employer contribution to the Public Pension Oversight Board no later than December 1, 2023.

(8) Salary Increment: Notwithstanding Part III, 2. of this Act, unexpended Restricted Funds to administer the salary increment pursuant to Part IV, 2. of this Act shall become available for expenditure in the 2022-2024 fiscal biennium. The Teachers' Retirement System shall submit a report on the cost to implement the salary increment to the Interim Joint Committee on Appropriations and Revenue no later than August 1, 2022.

➔Section 4. 2022 Kentucky Acts Chapter 199, Part I, Operating Budget, C. Department of Education, 2. Operations and Support Services, at pages 1658 to 1659, as amended by 2022 Kentucky Acts Chapter 2 and 2022 (1st Extra. Sess.) Kentucky Acts Chapter 1, is further amended to read as follows:

2. OPERATIONS AND SUPPORT SERVICES

	2021-22	2022-23	2023-24
General Fund	30,603,800	60,401,300 [63,901,300]	61,106,600 [64,606,600]
Restricted Funds	91,400	48,179,100	8,200,100
Federal Funds	130,400	465,364,900	465,407,300
TOTAL	30,825,600	573,945,300 [577,445,300]	534,714,000 [538,214,000]

(1) Employment of Leadership Personnel: Notwithstanding KRS 18A.005 to 18A.200, the Kentucky Board of Education shall continue to have sole authority to determine the employees of the Department of Education who are exempt from the classified service and to set those employees' compensation comparable to the competitive market.

(2) Debt Service: Included in the above General Fund appropriation is \$584,000 in fiscal year 2022-2023 and \$1,168,000 in fiscal year 2023-2024 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

(3) Blind/Deaf Residential Travel Program: Included in the above General Fund appropriation is \$492,300 in each fiscal year for the Blind/Deaf Residential Travel Program.

(4) School Food Services: Included in the above General Fund appropriation is \$3,827,000 in each fiscal year for the School Food Services Program.

(5) Advanced Placement and International Baccalaureate Exams: Notwithstanding KRS 160.348(3), included in the above General Fund appropriation is \$1,000,000 in each fiscal year to pay the cost of Advanced Placement and International Baccalaureate examinations for those students who meet the eligibility requirements for free or reduced-price meals. Notwithstanding KRS 154A.130(4) and 160.348(3), included in the above General Fund appropriation is \$2,600,000 in each fiscal year to pay the cost of Advanced Placement examinations for students on a first-come, first-served basis.

(6) Review of the Classification of Primary and Secondary School Buildings: Included in the above General Fund appropriation is \$600,000 in each fiscal year to implement KRS 157.420(9) and (10). Notwithstanding KRS 45.229, any portion of the \$600,000 that has not been expended by the end of fiscal year 2022-2023 shall not lapse and shall carry forward into fiscal year 2023-2024. Notwithstanding KRS 157.420(9) and (10), only schools classified as A1, A2, A3, A4, A5, A6, C2, and D1 shall be included in the evaluation process. Notwithstanding KRS 157.420(9) and (10), the Department of Education may limit the school buildings included in the evaluation process based on the time elapsed since the building's construction or last major renovation as defined in 702 KAR 4:160. The Department of Education shall provide an updated list of school buildings evaluated by the process pursuant to KRS 157.420(9) and (10) to the Legislative Research Commission by October 1, 2023.

(7) District Facility Plan Modifications: Notwithstanding any statute to the contrary, a district may modify its district facility plan without convening the local planning committee for the sole purpose of complying with KRS 158.162(3)(d). Any modification shall identify an unmet requirement of KRS 158.162(3)(d) as the highest priority on the modified district facility plan, subject to approval by the local board of education and the Commissioner of Education.

~~[(8) **Kentucky Datastream Initiative:** Included in the above General Fund appropriation is a one time allocation of \$3,500,000 in each fiscal year for the Kentucky Datastream Initiative.]~~

➔ Section 5. 2022 Kentucky Acts Chapter 199, Part I, Operating Budget, D. Education and Labor Cabinet, 1. General Administration and Program Support, at pages 1661 to 1662, is amended to read as follows:

1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2021-22	2022-23	2023-24
General Fund (Tobacco)	-0-	1,400,000	1,400,000
General Fund	125,600	21,656,400 [18,156,400]	21,505,900 [18,005,900]
Restricted Funds	728,400	25,095,900	25,215,700
Federal Funds	24,000	6,636,800	6,636,000
TOTAL	878,000	54,789,100 [51,289,100]	54,757,600 [51,257,600]

(1) Early Childhood Development: Included in the above General Fund (Tobacco) appropriation is \$1,400,000 in each fiscal year for the Early Childhood Advisory Council.

(2) Governor's Scholars Program: Included in the above General Fund appropriation is \$1,758,700 in each fiscal year for the Governor's Scholars Program.

(3) Governor's School for Entrepreneurs: Included in the above General Fund appropriation is \$895,000 in each fiscal year for the Governor's School for Entrepreneurs.

(4) Kentucky Center for Statistics: (a) Included in the above General Fund appropriation is \$1,200,000 in fiscal year 2022-2023 and \$1,733,300 in fiscal year 2023-2024 to sustain the State Longitudinal Data System.

(b) Included in the above General Fund appropriation is \$1,363,200 in each fiscal year for the Workforce Data Quality Initiative and Supplemental Nutrition Assistance Program data collection and analysis.

(5) The Hope Center: Included in the above General Fund appropriation is \$100,000 in each fiscal year for the Hope Center. Included in the above General Fund appropriation is an additional one-time allocation of \$250,000 in fiscal year 2022-2023 for the Hope Center.

(6) Kentucky Adult Learner Program: Included in the above General Fund appropriation is \$2,000,000 in each fiscal year for the Kentucky Adult Learner Program. The purpose of the program is to provide adults 18 years of age or older who have not graduated high school the opportunity to earn a high school diploma. The Education and Labor Cabinet (ELC) and the Kentucky Department of Education shall authorize a single eligible entity to operate the program for not more than 350 adult learners. The eligible entity shall be a Kentucky-based non-profit organization, agree to commit at least \$1,000,000 to the program, and staff the program with certified teachers teaching core academic subjects.

Notwithstanding any statute to the contrary, the Kentucky Adult Learner Program shall have authorization to issue a Kentucky high school diploma to an adult learner participant if all of the minimum graduation requirements under Kentucky law are met.

The Kentucky Board of Education and the ELC shall develop metrics that will appropriately assess the expected performance outcomes of the program.

(7) Heuser Hearing Institute: Included in the above General Fund appropriation is \$1,500,000 in each fiscal year for the Heuser Hearing Institute to develop a program to close the education and achievement gaps for deaf and hard-of-hearing individuals.

(8) Workforce Development Program Analysis: Included in the above General Fund appropriation is \$500,000 in fiscal year 2022-2023 to study the effectiveness of Kentucky's state-sponsored workforce development programs. The Cabinet shall collaborate with the Center for Business and Economic Research at the University of Kentucky to establish the scope of the study. The Cabinet shall provide a report regarding the outcome of the study to the Interim Joint Committee on Economic Development and Workforce Investment by December 1, 2023.

(9) Everybody Counts Program: Included in the above General Fund appropriation is \$5,000,000 in each fiscal year for the Everybody Counts Program.

(10) Kentucky Datastream Initiative: *Included in the above General Fund appropriation is a one-time allocation of \$3,500,000 in each fiscal year for the Kentucky Datastream Initiative.*

➔Section 6. 2022 Kentucky Acts Chapter 199, Part I, Operating Budget, K. Public Protection Cabinet, 1. Secretary, (1) Nonprofit Assistance, at pages 1699 to 1700, as amended by 2022 Kentucky Acts Chapter 239, is further amended to read as follows:

(1) Nonprofit Assistance: (a) Included in the above Federal Funds appropriation is \$75,000,000 in fiscal year 2022-2023 from the State Fiscal Recovery Fund of the American Rescue Plan Act of 2021 to provide direct relief payments to eligible nonprofit organizations. *Of this amount, \$2,570,400 in fiscal year 2022-2023 is appropriated as a one-time allocation to the Kentucky Nonprofit Network to support outreach, resources, and programming for Kentucky nonprofits to strengthen Kentucky communities. Beginning July 1, 2023, through September 1, 2027, the Kentucky Nonprofit Network shall provide an annual report to the Interim Joint Committee on Appropriations and Revenue by September 1 detailing the impact of these funds on the ability of nonprofits to mitigate the negative impact of COVID-19 and provide effective services.* Notwithstanding KRS 45.229, any unexpended Federal Funds from the American Rescue Plan Act of 2021 Federal Funds appropriations shall not lapse and shall carry forward. Eligible nonprofit organizations will be entitled to apply for a one-time assistance grant of a maximum amount of \$100,000 per organization, not to exceed the net negative revenue difference between the organization's calendar year 2020 and calendar year 2021 financial statements.

1. One-time assistance grants will be reviewed in the order in which they are received and eligible grants will be provided until the appropriate amount is exhausted.

2. The process for determining an applicant's eligibility and awarding the grants will be determined by the Secretary of the Public Protection Cabinet.

(b) Eligible nonprofit organization means organizations meeting all of the following criteria:

1. A nonprofit that has been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3), (6), or (8) or as veterans' organizations described in Section 501(c) of the United States Internal Revenue Code of 1986 and subject to the provisions of the Nonprofit Corporation Act;

2. A nonprofit based in Kentucky providing services to Kentuckians;

3. Excluding nonprofit arts organizations, a nonprofit providing services to the following populations most affected by COVID-19:

a. People living at or below the federal poverty level;

b. People experiencing homelessness;

c. Communities of Color;

d. Minimum or low-wage employees displaced by business closures;

e. Older adults living at or below the federal poverty level;

f. People who are immunocompromised or medically fragile;

g. Immigrant and refugee communities;

h. People with limited English proficiency;

i. People with disabilities;

j. People without health insurance;

k. Victims of domestic violence or child abuse;

l. Children in need of services; and

m. Workers without access to paid sick leave; and

(c) A nonprofit that has not already received direct financial assistance, excluding loans, through the federal CARES Act (Pub. L. No. 116-136), the Consolidated Appropriations Act, 2021 (H.R. 133), or any subsequent federal relief package enacted prior to the nonprofit's grant application being considered shall be given preference.

➔Section 7. 2022 Kentucky Acts Chapter 199, Part I, Operating Budget, L. Tourism, Arts and Heritage Cabinet, 10. Heritage Council, (2) American Battlefield Trust, at page 1706, is amended to read as follows:

(2) **American Battlefield Trust:** Included in the above General Fund appropriation is \$3,300,000 in fiscal year 2022-2023 to provide matching funds for the American Battlefield Trust. *Notwithstanding KRS 45.229, any portion of these funds that have not been expended by the end of fiscal year 2022-2023 shall not lapse and shall carry forward into fiscal year 2023-2024.*

➔Section 8. 2022 Kentucky Acts Chapter 199, Part II, Capital Projects Budget, I. Postsecondary Education, 11. Western Kentucky University, 002. Construct New Gordon Ford College of Business, at page 1744, is amended to read as follows:

002. Construct New Gordon Ford College of Business			
Bond Funds	-0-	-0-	74,400,000
<i>Agency Bonds</i>	<i>-0-</i>	<i>-0-</i>	<i>25,000,000</i>
TOTAL	-0-	-0-	99,400,000

➔Section 9. 2022 Kentucky Acts Chapter 214, Part I, Operating Budget, A. Transportation Cabinet, 1. General Administration and Support, at pages 2016 to 2017, is amended to read as follows:

1. GENERAL ADMINISTRATION AND SUPPORT

	2021-22	2022-23	2023-24
General Fund	-0-	500,000 [17,864,000]	500,000
Restricted Funds	31,400	2,743,400	2,752,300
Federal Funds	-0-	69,456,000	-0-
Road Fund	1,088,200	1,374,000	81,626,400
TOTAL	1,119,600	154,073,400 [171,437,400]	84,878,700

(1) **Biennial Highway Construction Plan:** The Secretary of the Transportation Cabinet shall produce a single document that shall detail the enacted fiscal biennium 2022-2024 Biennial Highway Construction Program and the 2024-2028 Highway Preconstruction Program.

(2) **Debt Service:** Included in the above Road Fund appropriation is \$343,800 in fiscal year 2022-2023 and \$345,000 in fiscal year 2023-2024 for debt service on previously authorized bonds.

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

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

(5) **Electric Vehicle Charging Program:** Included in the above *Federal Funds appropriation* is[~~appropriations are \$17,364,000 in General Fund and~~] \$69,456,000[~~in Federal Funds~~] in fiscal year 2022-2023 for the Electric Vehicle Charging Program in the Infrastructure Investment and Jobs Act.[~~Notwithstanding KRS 45.229, these funds shall not lapse and shall carry forward.~~] The Transportation Cabinet shall submit an Electric Vehicle Infrastructure Development Plan to the Interim Joint Committee on Transportation on or before June 30, 2022.

➔Section 10. 2022 Kentucky Acts Chapter 239, Section 13, at page 2408, is amended to read as follows:

There is hereby appropriated Federal Funds from the State Fiscal Recovery Fund from the American Rescue Plan Act of 2021 in the amount of \$1,500,000 in fiscal year[~~years~~] 2022-2023[~~and 2023-2024~~] to the Learning and Results Services budget unit to enrich science curriculums. *There is hereby appropriated Federal Funds from the State Fiscal Recovery Fund from the American Rescue Plan Act of 2021 in the amount of \$1,500,000 in fiscal year 2023-2024 to the Learning and Results Services budget unit for a chemistry and physical science 3D game-based learning platform for middle school and high school students that aligns to Kentucky's science academic standards, connects the standards to real world technologies and applications, and highlights STEM and CTE career pathways in Kentucky to increase students' interest in pursuing a chemistry-related career.*

➔Section 11. There is hereby appropriated Restricted Funds in the amount of \$325,000 in fiscal year 2023-2024 to the Hairdressers and Cosmetologists budget unit as a one-time allocation for an information technology project.

➔Section 12. There is hereby appropriated \$63,663,100 in Restricted Funds and \$254,652,500 in Federal Funds in fiscal year 2022-2023 and \$322,499,200 in Restricted Funds and \$1,143,406,400 in Federal Funds in fiscal year 2023-2024 to the Medicaid Benefits budget unit to provide Medicaid reimbursement of outpatient hospital services under the Hospital Rate Improvement Program.

➔Section 13. Notwithstanding KRS 39A.303(1), there is hereby transferred Restricted Funds from the East Kentucky State Aid Funding for Emergencies (EKSAFE) Fund in the amount of \$10,000,000 in fiscal year 2023-2024 to the Rural Housing Trust Fund. These funds are hereby appropriated and shall be used to provide loans or grants for eligible activities, including but not limited to acquisition, construction, or rehabilitation of rural housing units to those located in the areas named in the Presidential Declaration of a Major Disaster, designated FEMA-4663-DR-KY, in the eastern Kentucky region to recover from the devastation caused by the storms and flooding.

➔Section 14. Notwithstanding KRS 39A.305(1), there is hereby transferred Restricted Funds from the West Kentucky State Aid Funding for Emergencies (WKSAFE) Fund in the amount of \$10,000,000 in fiscal year 2023-2024 to the Rural Housing Trust Fund. These funds are hereby appropriated and shall be used to provide loans or grants for eligible activities, including but not limited to acquisition, construction, or rehabilitation of rural housing units to those located in the areas named in the Presidential Declaration of a Major Disaster, designated FEMA-4630-DR-KY, in the western Kentucky region to recover from the devastation caused by the storms and tornadoes.

➔Section 15. Notwithstanding KRS 304.2-300 and 304.2-400, there is hereby transferred Restricted Funds in the amount of \$1,300,000 in fiscal year 2023-2024 to the Self-Insurance Fund (KRS 342.920) to support making payments to eligible workers' compensation claimants. Notwithstanding KRS 342.920, these funds shall be disbursed to the Kentucky Group Self-Insurance Guaranty Fund to make payments in fiscal year 2023-2024 to workers' compensation claimants injured after March 1, 1997, when the security of a former self-insured group has been depleted. Notwithstanding 342.908(4), no assessments from the members of the Kentucky Group Self-Insurance Guaranty Fund shall exceed an amount in excess of \$5,000,000 at any given time. Notwithstanding KRS 342.908(4) and (5), the Board of Directors shall raise assessments to a percentage of the premium for each member of the Kentucky Group Self-Insurance Guaranty Fund sufficient to pay outstanding claims.

➔Section 16. Whereas the provisions of this Act provide ongoing support for state government agencies and their functions, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 28, 2023.

CHAPTER 117

(HB 153)

AN ACT relating to prohibiting the enforcement of a federal ban or regulation of firearms and declaring an emergency.

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

➔Section 1. The General Assembly of the Commonwealth of Kentucky finds that:

(1) Section 1 of the Constitution of Kentucky provides, in part, that all men have an inalienable right to bear arms in defense of themselves and of the state;

(2) The Second Amendment to the Constitution of the United States guarantees the right of the people to keep and bear arms;

(3) The Tenth Amendment to the Constitution of the United States reserves to the states and people all powers not granted to the federal government; and

(4) The Supreme Court of the United States, in the case of *Printz v. United States*, 521 U.S. 898 (1997), affirmed that the federal government does not have the authority to commandeer local or state agents to enforce federal policy.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
- (a) *"Ammunition" has the same meaning as KRS 237.060;*
 - (b) *"Federal ban" means a federal law, executive order, rule, or regulation that is enacted, adopted, or becomes effective on or after January 1, 2021, or a new and more restrictive interpretation of a law that existed on January 21, 2021, that infringes upon, calls into question, prohibits, restricts, or requires individual licensure for or registration of the purchase, ownership, possession, transfer, or use of any firearm, ammunition, or firearm accessory;*
 - (c) *"Firearm" has the same meaning as KRS 237.060;*
 - (d) *"Firearm accessory" means an item that is used in conjunction with or mounted on a firearm but is not essential to the basic function of the firearm, including but not limited to a detachable magazine;*
 - (e) *"Law enforcement agency" means:*
 - 1. *Any public agency that employs a law enforcement officer;*
 - 2. *Any public agency that is composed of or employs other public peace officers; and*
 - 3. *A campus security authority as defined in KRS 164.948 of a public institution operating under KRS Chapter 164;*
 - (f) *"Law enforcement officer" means any "peace officer" as defined in KRS 446.010 and any "correctional officer" as defined in KRS 441.045(15)(e);*
 - (g) *"Local government" means any city, county, charter county, urban-county, consolidated local, or unified local government; and*
 - (h) *"Public agency" has the same meaning as KRS 61.870, including a policy-making board, or any officer, employee, or entity of a public institution operating under KRS Chapter 164.*
- (2) *No law enforcement agency, law enforcement officer, employee of a law enforcement agency, public agency, public official, employee of a public agency, or employee of a local government shall enforce, assist in the enforcement of, or otherwise cooperate in the enforcement of a federal ban on firearms, ammunition, or firearm accessories, and shall not participate in any federal enforcement action implementing a federal ban on firearms, ammunition, or firearm accessories.*
- (3) *No law enforcement agency, local government, or public agency shall adopt a rule, order, ordinance, or policy under which the entity enforces, assists in the enforcement of, or otherwise cooperates in a federal ban on firearms, ammunition, or firearm accessory.*
- (4) *No local government, employee of a local government, public official, public agency, or employee of a public agency shall expend public funds or allocate resources for the enforcement of a federal ban on firearms, ammunition, or firearm accessories.*
- (5) *A person commits an offense under this section when, while acting in his or her official capacity under color of law, he or she knowingly violates this section. An offense under this section is a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.*
- (6) *A person who knowingly commits an offense under this section shall be subject to termination from employment to the extent allowable under state law.*
- (7) *Nothing in this section may be interpreted to prohibit or otherwise limit a law enforcement agency, law enforcement officer, employee of a law enforcement agency, public agency, public official, employee of a public agency, or employee of a local government from cooperating, communicating, or collaborating with a federal agency if the primary purpose is not:*
- (a) *Law enforcement activity related to a federal ban on firearm, ammunition, or firearm accessories; or*
 - (b) *The investigation of a violation of a federal ban on firearm, ammunition, or firearm accessories.*
- (8) *This section shall be retroactive to January 1, 2021.*

➔Section 3. If any provision of Section 2 of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of Section 2 of this Act that can be given

effect without the invalid provision or application, and to this end the provisions of Section 2 of this Act are severable.

➔Section 4. Whereas the federal government continues to commandeer state and local law enforcement to aid in its infringement upon the right to bear arms and no just cause exists for delay, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Became law without Governor's signature March 28, 2023.

CHAPTER 118

(SB 4)

AN ACT relating to the retirement of fossil fuel-fired electric generating units and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

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

- (1) *"Electric generating unit" means one (1) or more fossil fuel-fired combustion or steam generating sources used for generating electricity that deliver all or part of their power to the electric power grid for sale;*
- (2) *"Reliability" means having adequate electric generation capacity to safely deliver electric energy in the quantity, with the quality, and at a time that the utility customers demand;*
- (3) *"Resilience" means having the ability to quickly and effectively respond to and recover from events that compromise grid reliability;*
- (4) *"Retirement" or "retired" means the closure or the complete and permanent cessation of operations at an electric generating unit; and*
- (5) *"Utility" has the same meaning as in KRS 278.010(3)(a).*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any provision of law to the contrary, the commission shall have the authority to approve or deny the retirement of an electric generating unit owned by a utility. Prior to retiring an electric generating unit, a utility shall apply to the commission for an order approving the retirement, and shall give the commission thirty (30) days' notice of the application. The commission shall enter an order approving, approving with conditions, or denying the application within one hundred eighty (180) days of receiving an administratively complete application.*
- (2) *There shall be a rebuttable presumption against the retirement of a fossil fuel-fired electric generating unit. The commission shall not approve the retirement of an electric generating unit, authorize a surcharge for the decommissioning of the unit, or take any other action which authorizes or allows for the recovery of costs for the retirement of an electric generating unit, including any stranded asset recovery, unless the presumption created by this section is rebutted by evidence sufficient for the commission to find that:*
 - (a) *The utility will replace the retired electric generating unit with new electric generating capacity that:*
 1. *Is dispatchable by either the utility or the regional transmission organization or independent system operator responsible for balancing load within the utility's service area;*
 2. *Maintains or improves the reliability and resilience of the electric transmission grid; and*
 3. *Maintains the minimum reserve capacity requirement established by the utility's reliability coordinator;*
 - (b) *The retirement will not harm the utility's ratepayers by causing the utility to incur any net incremental costs to be recovered from ratepayers that could be avoided by continuing to operate the electric generating unit proposed for retirement in compliance with applicable law; and*

- (c) *The decision to retire the fossil fuel-fired electric generating unit is not the result of any financial incentives or benefits offered by any federal agency.*
- (3) *The utility shall at a minimum provide the commission with evidence of all known direct and indirect costs of retiring the electric generating unit and demonstrate that cost savings will result to customers as a result of the retirement of the electric generating unit.*
- (4) *The commission shall prepare and submit an annual report to the Legislative Research Commission by December 1 of each year detailing:*
 - (a) *The number of requests by utilities to retire electric generating units in the Commonwealth, the nameplate capacity of each of those units, and whether the request was approved or denied by the commission;*
 - (b) *The impact of any commission-approved retirement of an electric generating unit on the:*
 - 1. *Commonwealth's generation fuel mix;*
 - 2. *Required capacity reserve margins for the utility;*
 - 3. *Need for capacity additions or expansions at new or existing facilities as a result of the retirement; and*
 - 4. *Need for additional purchase power or capacity reserve arrangements; and*
 - (c) *Whether the retirement resulted in stranded costs for the ratepayer that will be recovered by the utility through a surcharge or some other separate charge on the customer bill.*

➔Section 3. Whereas the United States is retiring coal-fired electric generating units at an unprecedented rate, with retirements potentially affecting employment rates, tax revenues, and utility rates, and compromising the reliability of electric power service and resilience of the electric grid, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Became law without Governor's signature March 29, 2023.

CHAPTER 119

(SB 75)

AN ACT relating to motor vehicle parking authorities.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

- (1) *No budget, budget amendment, fee, or rate of the authority shall be effective before the authority submits that budget, budget amendment, fee, or rate to the governing body of the urban-county government as set out in this section.*
- (2) *The authority shall submit its budget, or any budget amendment, to the legislative body of the urban-county government no later than forty-five (45) days prior to the implementation of the budget or the budget amendment. No budget or budget amendment shall be implemented without the approval of the legislative body of the urban-county government.*
- (3) (a) *If the authority proposes the imposition of a new fee or rate or a fee or rate that is higher than a fee or rate in effect at the time, then the authority shall submit the proposed fee or rate to the legislative body of the urban-county government no later than forty-five (45) days prior to the scheduled implementation of that fee or rate.*
- (b) *The governing body of the urban-county government shall have thirty (30) days from the date of submission to:*
 - 1. *Approve or fail to act on the proposed fee, in which case the proposed fee or rate may be implemented by the authority;*

2. *Approve a fee in an amount less than the amount of the proposed fee or rate, in which case the approved fee or rate amount may be implemented by the authority; or*
 3. *Disapprove the entire proposed fee by a majority vote of the governing body, in which case:*
 - a. *If a proposed increase of an existing fee or rate is disapproved, any fee then in existence shall remain unchanged, and the authority shall not seek to increase the fee again for at least one (1) year from the date of the submission of the disapproved fee or rate increase; and*
 - b. *If a proposed initial rate or fee is disapproved, the authority shall not seek to impose the fee or rate again for at least one (1) year from the date of the submission of the disapproved initial rate or fee.*
- (4) *This section shall not be interpreted:*
- (a) *As transferring any fee or rate-levying authority granted to the authority under any other provision of the Kentucky Revised Statutes to the urban-county government charged with reviewing fee or rates under this section; or*
 - (b) *To grant any fee or rate-levying power on behalf of the authority to the urban-county government reviewing fees or rates proposed by the authority and subject to review under this section.*
- (5) *This section shall apply independently of and in addition to any other statutory requirements and provisions or ordinances of the urban-county government relating to the levying of a fee or rate, or the submission of a budget of the authority, including any rate limits and public hearing requirements. This section shall not be interpreted to circumvent, supplant, or otherwise replace those requirements and provisions.*
- (6) *This section shall not be interpreted as limiting the ability of any urban-county government to impose reporting or submission requirements that are more stringent than those established in this section.*

Became law without Governor's signature March 29, 2023.

CHAPTER 120

(SB 5)

AN ACT relating to education and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, "harmful to minors" means materials, programs, or events that:*
- (a) *Contain the exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area, or buttocks or the female breast, or visual depictions of sexual acts or simulations of sexual acts, or explicit written descriptions of sexual acts;*
 - (b) *Taken as a whole, appeal to the prurient interest in sex; or*
 - (c) *Is patently offensive to prevailing standards regarding what is suitable for minors.*
- (2) *No later than July 1, 2023, each local board of education shall adopt a complaint resolution policy for its local schools to be used to address complaints submitted by parents or guardians alleging that material, a program, or an event that is harmful to minors has been provided or is currently available to a student enrolled in the local school district who is the child of the parent or guardian. The complaint resolution process shall require that:*
- (a) *Complaints be submitted in writing to the principal of the school where the student is enrolled;*
 - (b) *Complaints provide the name of the complainant, a reasonably detailed description of the material, program, or event that is alleged to be harmful to minors, and how the material, program, or event is believed to be harmful to minors;*

- (c) *Within seven (7) business days of receiving a written complaint, the school principal shall review the complaint and take reasonable steps to investigate the allegations in the complaint, including but not limited to reviewing the material, program, or event that is alleged to be harmful to minors;*
 - (d) *The school principal shall determine whether the material, program, or event that is the subject of the complaint is harmful to minors;*
 - (e) *The school principal shall determine whether student access to material that is the subject of the complaint shall remain, be restricted, or be removed;*
 - (f) *The school principal shall determine whether a program or event that is the subject of the complaint shall be eligible for future participation by students in the school;*
 - (g) *Within ten (10) business days of receiving the complaint, unless another schedule is mutually agreed to by the parent or guardian and the school principal, the school principal shall confer with the parent or guardian and inform him or her whether the material, program, or event that is the subject of the complaint was determined to be harmful to minors and what the resolution will be in accordance with paragraphs (e) and (f) of this subsection;*
 - (h) *Appeals of the school principal's determination provided for in paragraphs (d), (e), and (f) of this subsection shall:*
 - 1. *Be subject to full administrative and substantive review by the local board of education and shall not be delegated;*
 - 2. *Include an opportunity for the parent or guardian to provide input during public comment at a local board of education meeting;*
 - 3. *Be completed within thirty (30) calendar days of receiving the written appeal unless another time frame is mutually agreed upon by the parent or guardian and the local board of education; and*
 - 4. *Be discussed and voted on during a meeting of the local board of education subject to the open records and open meeting requirements under KRS Chapter 61;*
 - (i) *The board's final disposition of the appeal shall be made in writing and shall state whether the material, program, or event was determined to be harmful to minors and whether student access to the material will remain, be restricted, or be removed and whether the program or event shall be eligible for future participation by students in the school; and*
 - (j) *Within fifteen (15) business days from the date of a final disposition, the title of the material or a description of the program or event submitted for appeal pursuant to paragraph (h) of this subsection, whether the material, program, or event was determined to be harmful to minors, whether student access to the material will remain, be restricted, or be removed or whether the program or event shall be eligible for future participation by students in the school, and the vote cast by each individual board member shall:*
 - 1. *Be published on the website of the local board of education where it shall remain available for review; and*
 - 2. *Be published in the newspaper with the largest circulation in the county.*
- (3) (a) *A parent or guardian may request in writing to the school, after final disposition is determined by the board as provided for in subsection (2)(i) of this section, that the school ensure his or her student does not have access to the material, program, or event that the parent or guardian believes to be harmful to minors but was allowed to remain or be eligible for future participation.*
 - (b) *The school shall ensure that the student whose parent or guardian has made a request as provided for in paragraph (a) of this subsection does not have access to the material or is not allowed to participate in the program or event that the parent or guardian believes to be harmful to minors.*
 - (4) *A parent or guardian not having filed the appeal may request in writing access to the appealed materials, programs, or events for review and shall abide by the school's and district's policies and procedures when requesting and reviewing such information.*
 - (5) *No later than May 1, 2023, the Department of Education shall promulgate a model policy for a complaint resolution process that meets the requirements of subsections (2), (3), and (4) of this section.*

➔Section 2. Whereas it is imperative that materials, programs, and events that are harmful to minors not be made available to students within the schools of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Became law without Governor's signature March 29, 2023.

CHAPTER 121

(HB 13)

AN ACT relating to commercial driver's licenses.

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

➔Section 1. KRS 281A.175 is amended to read as follows:

- (1) An applicant for a school bus endorsement shall satisfy the following requirements:
 - (a) Qualify for a passenger vehicle endorsement by passing the knowledge and skills test for obtaining a passenger vehicle endorsement;
 - (b) Demonstrate knowledge of loading and unloading children, including the safe operation of stop signal devices, external mirror systems, flashing lights, and other warning and safety devices required for school buses by state or federal law or regulation;
 - (c) Demonstrate knowledge of emergency exits and procedures for safely evacuating passengers in an emergency;
 - (d) Demonstrate knowledge of state and federal laws and regulations related to safely traversing highway rail grade crossings; and
 - (e) Submit to ~~a[an annual]~~ physical examination **at least every twenty-four (24) months** in accordance with 49 C.F.R. pt. 391, completed by a medical examiner as defined by 49 C.F.R. pt. 390.
- (2) An applicant for a school bus endorsement shall take a driving skills test in a school bus of the same vehicle group as the school bus the applicant will drive.

➔Section 2. KRS 281A.120 is amended to read as follows:

- (1) A commercial driver's instruction permit may be issued to an individual twenty-one (21) years and older who:
 - (a) Has complied with the criminal history background check required by KRS 281A.300;
 - (b) Holds a valid Kentucky Class D operator's license;
 - (c) Is a citizen or permanent resident of the United States, ***or can provide to the cabinet documentation issued by the United States Citizenship and Immigration Services in the United States Department of Homeland Security, authorizing the person to be in the United States and to be employed while in the United States;*** and
 - (d) Has passed the vision and knowledge tests required for a commercial driver's license of the class vehicle to be driven. Instruction permits shall be class specific.
- (2) A commercial driver's instruction permit may be issued to a resident eighteen (18) years of age who:
 - (a) Has complied with the criminal history background check required by KRS 281A.300;
 - (b) Holds a valid Kentucky Class D operator's license;
 - (c) Is a citizen or permanent resident of the United States, ***or can provide to the cabinet documentation issued by the United States Citizenship and Immigration Services in the United States Department of Homeland Security, authorizing the person to be in the United States and to be employed while in the United States;*** and
 - (d) Has passed the vision and knowledge tests required for a commercial driver's license of the class vehicle to be driven.

A commercial driver's license instruction permit issued under this subsection shall be valid only for the operation of a commercial motor vehicle in intrastate commerce that is not a school bus or a vehicle hauling hazardous material. The instruction permit shall be class specific and shall contain an "I" restriction noting that the commercial driver is limited to Kentucky intrastate commerce.

- (3) A commercial driver's instruction permit shall not be issued to a resident for a period to exceed one hundred eighty (180) days. Only one (1) renewal or reissuance may be granted within a two (2) year period for the same class of vehicle. The holder of a commercial driver's instruction permit may, unless otherwise disqualified, drive a commercial motor vehicle on the highways of Kentucky only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven and who occupies a seat beside the permit holder for the purpose of giving instruction in driving the commercial motor vehicle.
- (4) A person who is not a resident who is enrolled in a program offering commercial truck driving under the Kentucky Community and Technical College System or a proprietary school licensed under KRS Chapter 165A may be issued a provisional Class D license that allows an applicant to include a commercial driver's instruction permit into a single license that shall be valid for ninety (90) days. The fee for a provisional Class D license shall be the same as for a regular Class D license. A provisional Class D license may be renewed for one (1) ninety (90) day period. A person issued a provisional Class D license under this subsection shall be required to convert the license to a regular Kentucky CDL or return to the person's state of domicile and transfer the Kentucky provisional Class D license to his or her state of domicile. A provisional Class D license issued under this subsection shall not be converted to a regular Class D license unless the applicant satisfies all Kentucky residency requirements. A commercial driver's instruction permit shall contain, in addition to other information required by the cabinet, those requirements set forth in KRS 281A.170. The commercial driver's instruction permit shall not contain the permit holder's Social Security number but shall include a color photo of the permit holder.

Became law without Governor's signature March 29, 2023.

CHAPTER 122

(HB 264)

AN ACT relating to regulatory relief.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act, unless the context suggests otherwise:

- (1) *"Advisory committee" means the General Regulatory Sandbox Advisory Committee;*
- (2) *"Applicable agency" means a department or agency of the state that by law regulates a business activity and persons engaged in the business activity, including the issuance of licenses or other types of authorization, which the office determines would otherwise regulate a sandbox participant;*
- (3) *"Applicant" means a person that applies to participate in the regulatory sandbox;*
- (4) *"Consumer" means a person that purchases or otherwise enters into a transaction or agreement to receive an offering pursuant to a demonstration by a sandbox participant;*
- (5) *"Demonstrate" or "demonstration" means to temporarily provide an offering in accordance with the provisions of the regulatory sandbox described in Sections 1 to 9 of this Act;*
- (6) *"Director" means the director of the Kentucky Office of Regulatory Relief;*
- (7) *"Innovation" means the use or incorporation of a new idea, a new or emerging technology, or a new use of existing technology to address a problem, provide a benefit, or otherwise offer a product, production method, or service;*
- (8) *"Innovative offering" means an offering that includes an innovation;*
- (9) (a) *"Offering" means a product, production method, or service.*

- (b) *"Offering" shall not include a product, production method, or service that is subject to regulation under:*
1. *KRS Chapter 292, the Securities Act of Kentucky; or*
 2. *KRS Chapter 216B, Licensure and Regulation of Health Facilities and Services;*
- (10) *"Product" means a commercially distributed good that is:*
- (a) *Tangible personal property;*
 - (b) *The result of a production process; and*
 - (c) *Passed through the distribution channel before consumption;*
- (11) *"Production" means the method or process of creating or obtaining a good, which may include assembling, breeding, capturing, collecting, extracting, fabricating, farming, fishing, gathering, growing, harvesting, hunting, manufacturing, mining, processing, raising, or trapping a good;*
- (12) *"Regulatory relief office" means the Kentucky Office of Regulatory Relief;*
- (13) *"Sandbox" or "regulatory sandbox" means the General Regulatory Sandbox Program, which allows a person to temporarily demonstrate an offering under a waiver or suspension of one (1) or more administrative regulations;*
- (14) *"Sandbox participant" means a person whose application to participate in the regulatory sandbox is approved in accordance with Section 6 of this Act; and*
- (15) *"Service" means any commercial activity, duty, or labor performed for another person.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) *The General Regulatory Sandbox Advisory Committee is hereby established for the purpose of advising and making recommendations to the Kentucky Office of Regulatory Relief concerning the implementation and administration of the General Regulatory Sandbox Program.*
- (2) *The advisory committee shall consist of fourteen (14) members as follows:*
- (a) *Five (5) members representing the business community shall be appointed by the Attorney General from a list of three (3) names for each position to be submitted by the following organizations:*
 1. *Kentucky Chamber of Commerce;*
 2. *Kentucky Association of Manufacturers;*
 3. *National Federation of Independent Business;*
 4. *Kentucky Retail Federation; and*
 5. *Kentucky Farm Bureau;*
 - (b) *Five (5) members consisting of the cabinet secretary or his or her designee of the following state agencies:*
 1. *Transportation Cabinet;*
 2. *Energy and Environment Cabinet;*
 3. *Cabinet for Economic Development;*
 4. *Public Protection Cabinet; and*
 5. *Education and Labor Cabinet;*
 - (c) *One (1) member of the Senate appointed by the President of the Senate and one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate, who shall serve as ex officio, nonvoting members for the duration of the terms for which they were elected; and*
 - (d) *One (1) member of the House of Representatives appointed by the Speaker of the House of Representatives and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives, who shall serve as ex officio, nonvoting members for the duration of the terms for which they were elected.*

- (3) *After the initial appointments, members of the advisory committee who are appointed under subsection (2)(a) of this section shall serve a term of four (4) years.*
- (4) *The Attorney General shall select a chair of the committee on an annual basis.*
- (5) *Notwithstanding the requirements of subsection (3) of this section, the Attorney General may adjust the length of terms of appointments and reappointments to the committee so that half of the advisory committee is appointed every two (2) years.*
- (6) *A member of the advisory committee shall not receive compensation or benefits for the member's service, but a member appointed under subsection (2)(a) of this section shall receive per diem and travel expenses consistent with the reimbursement policy for state employees.*
- (7) *A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business, and the action of the majority of a quorum constitutes the action of the advisory committee.*
- (8) *Meetings of the advisory committee shall not be subject to public disclosure pursuant to the Kentucky Open Records Act, KRS 61.805 to 61.850.*
- (9) *The advisory committee shall be attached to the Office of the Attorney General for administrative purposes.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Office of Regulatory Relief is hereby created within the Office of the Attorney General.*
- (2)
 - (a) *There shall be a director within the regulatory relief office responsible for administering Sections 1 to 9 of this Act. The director shall be appointed by the Attorney General.*
 - (b) *The director shall review all applications for admission to the regulatory sandbox. The director shall report to the Attorney General and may appoint staff subject to the approval of the Attorney General.*
- (3) *The regulatory relief office shall:*
 - (a) *Administer the regulatory sandbox established in Section 4 of this Act;*
 - (b) *Establish a program to enable a person to obtain legal protections and limited access to the market in the state to demonstrate an innovative offering without obtaining a license or other authorization that might otherwise be required;*
 - (c) *Establish an application fee not to exceed one thousand dollars (\$1,000) for admission to the regulatory sandbox;*
 - (d) *Act as a liaison between private businesses and applicable agencies to identify administrative regulations that may be waived or suspended under the regulatory sandbox;*
 - (e) *Consult with each applicable agency; and*
 - (f) *Administer the provisions of Sections 1 to 9 of this Act.*
- (4) *The regulatory relief office may:*
 - (a) *Review administrative regulations that may unnecessarily inhibit the creation and success of new companies or industries, and provide recommendations to the Governor and the General Assembly on modifying those administrative regulations;*
 - (b) *Create a framework for analyzing the risk level to the health, safety, and financial well-being of consumers related to permanently removing or temporarily suspending administrative regulations that inhibit the creation or success of new and existing companies or industries;*
 - (c) *Propose potential reciprocity agreements between states that use or may propose to use similar regulatory sandbox programs as described in Section 4 of this Act;*
 - (d) *Enter into agreements with or adopt the best practices of corresponding federal regulatory agencies or other states that may administer similar programs;*
 - (e) *Consult with businesses in the state about existing or potential proposals for the regulatory sandbox; and*
 - (f) *Promulgate administrative regulations concerning:*

1. *Administering the regulatory sandbox;*
2. *The application process;*
3. *Reporting requirements of sandbox participants; and*
4. *Cooperating and consulting with other agencies in the Commonwealth that administer sandbox programs.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) *The General Regulatory Sandbox Program is hereby created within the Kentucky Office of Regulatory Relief to provide relevant information regarding the regulatory sandbox program, including informing an applicant whether it may be more suitable to apply for the program described in this section or Section 12 of this Act.*
- (2) *An applicant for the regulatory sandbox may contact the regulatory relief office to request a consultation regarding the regulatory sandbox before submitting an application.*
- (3) *An applicant for the regulatory sandbox shall submit to the regulatory relief office:*
 - (a) *The required application fee as determined by the regulatory relief office;*
 - (b) *A written application on a form prescribed by the regulatory relief office that:*
 1. *Confirms the applicant is subject to the jurisdiction of the state;*
 2. *Confirms the applicant has established a physical or virtual location in the state, from which the demonstration of an innovative offering will be developed and performed and where all required records, documents, and data will be maintained;*
 3. *Contains relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the regulatory relief office;*
 4. *Discloses criminal convictions of the applicant or other participating personnel, if any;*
 5. *Contains a description of the innovative offering to be demonstrated, including statements regarding:*
 - a. *How the offering is subject to licensing, legal prohibition, or other authorization requirements outside of the regulatory sandbox;*
 - b. *Each administrative regulation that the applicant seeks to have waived or suspended while participating in the regulatory sandbox program;*
 - c. *How the offering would benefit consumers;*
 - d. *How the offering is different from other offerings available in the state;*
 - e. *What risks might exist for consumers who use or purchase the offering;*
 - f. *How participating in the regulatory sandbox would enable a successful demonstration of the offering;*
 - g. *A description of the proposed demonstration plan, including estimated time periods for beginning and ending the demonstration;*
 - h. *Recognition that the applicant will be subject to administrative regulations pertaining to the applicant's offering after conclusion of the demonstration; and*
 - i. *How the applicant will end the demonstration and protect consumers if the demonstration fails; and*
 6. *Lists each governmental agency, if any, that the applicant knows regulates the applicant's business; and*
 - (c) *Any other required information that the regulatory relief office deems necessary.*
- (4) *An applicant shall file a separate application for each innovative offering that the applicant wishes to demonstrate.*

- (5) *A person shall not be eligible to make an application under this section if the person is seeking regulatory relief that is available under KRS 304.3-700 to 304.3-735.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) *Upon receipt of an application, the regulatory relief office shall:*
- (a) *Classify the application and any related information provided by the applicant as a protected record in accordance with the Kentucky Open Records Act, KRS 61.870 to 61.884;*
 - (b) *Consult with each applicable governmental agency that regulates the applicant's business regarding whether more information is needed from the applicant; and*
 - (c) *Seek additional information from the applicant that the regulatory relief office determines is necessary.*
- (2) *No later than five (5) business days after the day on which a complete application is received by the regulatory relief office, the regulatory relief office shall:*
- (a) *Review the application and refer the application to each applicable governmental agency that regulates the applicant's business; and*
 - (b) *Provide to the applicant:*
 1. *An acknowledgment of receipt of the application; and*
 2. *The identity and contact information of each regulatory agency to which the application has been referred for review.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Subject to paragraphs (c) and (g) of this subsection, no later than thirty (30) days after the day on which an applicable agency receives a complete application for review, the applicable agency shall provide a written report to the director of the applicable agency's findings.*
- (b) *The report shall:*
1. *Describe any identifiable, likely, and significant harm to the health, safety, or financial well-being of consumers that the relevant administrative regulation protects against; and*
 2. *Make a recommendation to the regulatory relief office that the applicant either be admitted or denied entrance into the regulatory sandbox.*
- (c) 1. *The applicable agency may request an additional five (5) business days to deliver the written report by providing notice to the director, and the request shall automatically be granted.*
2. *The applicable agency may only request one (1) extension per application.*
- (d) *If the applicable agency recommends an applicant under this section be denied entrance into the regulatory sandbox, the written report shall include a description of the reasons for the recommendation, including why a temporary waiver or suspension of the relevant administrative regulations would potentially significantly harm the health, safety, or financial well-being of consumers or the public and the likelihood of such harm occurring.*
- (e) *If the applicable agency determines that the consumer's or public's health, safety, or financial well-being can be protected through less restrictive means than the existing relevant administrative regulations, then the applicable agency shall provide a recommendation of how that can be achieved.*
- (f) *If an applicable agency fails to deliver a written report as described in this subsection, the director shall assume that the applicable agency does not object to the temporary waiver or suspension of the relevant administrative regulations for an applicant seeking to participate in the regulatory sandbox.*
- (g) *Notwithstanding any other provision of this section, an applicable agency may by written notice to the regulatory relief office:*
1. *Within the thirty (30) days after the day on which the applicable agency receives a complete application for review, or within thirty-five (35) days if an extension has been requested by the applicable agency, reject an application if the applicable agency determines, in the applicable agency's sole discretion, that the applicant's offering fails to comply with standards or specifications:*

- a. *Required by federal law or regulation; or*
 - b. *Previously approved for use by a federal agency; or*
2. *Reject an application preliminarily approved by the regulatory relief office, if the applicable agency:*
- a. *Recommends rejection of the application in accordance with paragraph (d) of this subsection in the agency's written report; and*
 - b. *Provides in the written notice under this paragraph a description of the applicable agency's reasons why approval of the application would create a substantial risk of harm to the health or safety of the public, or create unreasonable expenses for taxpayers in the state.*
- (h) *If an applicable agency rejects an application under paragraph (g) of this subsection, the regulatory relief office shall not approve the application.*
- (2) (a) *Upon receiving a written report described in subsection (1) of this section, the director shall provide the application and the written report to the advisory committee.*
- (b) *The director may call the advisory committee to meet as needed, but not less than once per quarter if applications are available for review.*
- (c) *After receiving and reviewing the application and each written report, the advisory committee shall provide to the director the advisory committee's recommendation as to whether the applicant may be admitted as a sandbox participant under this section and Section 4 of this Act.*
- (d) *As part of the advisory committee's review of each written report, the advisory committee shall use the criteria required for an applicable agency as described in subsection (1) of this section.*
- (3) (a) *In reviewing an application and each applicable agency's written report, the regulatory relief office shall consult with each applicable agency and the advisory committee before admitting an applicant into the regulatory sandbox.*
- (b) *The consultation with each applicable agency and the consultation with the advisory committee may include seeking information about whether the applicable agency has previously:*
- 1. *Issued a license or other authorization to the applicant; and*
 - 2. *Investigated, sanctioned, or pursued legal action against the applicant.*
- (4) *In reviewing an application under this section, the regulatory relief office and each applicable agency shall consider whether a competitor to the applicant is or has been a sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a sandbox participant.*
- (5) *In reviewing an application under this section, the regulatory relief office shall consider whether:*
- (a) *The applicant's plan will adequately protect consumers from potential harm identified by an applicable agency in the applicable agency's written report;*
 - (b) *The risk of harm to consumers is outweighed by the potential benefits to consumers from the applicant's participation in the regulatory sandbox; and*
 - (c) *Certain administrative regulations that regulate an offering shall not be waived or suspended even if the applicant is approved as a sandbox participant, including applicable antifraud or disclosure provisions.*
- (6) (a) *An applicant becomes a sandbox participant if the regulatory relief office approves the application for the regulatory sandbox and enters into a written agreement with the applicant describing the specific administrative regulations that may be waived or suspended as part of participation in the regulatory sandbox.*
- (b) *Notwithstanding any other provision of Sections 1 to 9 of this Act, the regulatory relief office shall not enter into a written agreement with an applicant that waives or suspends a tax, fee, or charge that is administered by the Department of Revenue or that is described in KRS Chapters 131 to 144.*
- (c) *Notwithstanding any other provision of Sections 1 to 9 of this Act, the regulatory relief office shall not enter into a written agreement with an applicant that waives or suspends a requirement for*

licensure or regulation of a health facility by the Cabinet for Health and Family Services pursuant to KRS Chapter 216B.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) *The director shall deny an application for participation in the regulatory sandbox if the applicant or any person who seeks to participate with the applicant in demonstrating an offering has been convicted, entered a plea of nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance, for any crime involving significant theft, fraud, or dishonesty if the crime bears a significant relationship to the applicant's or other participant's ability to safely and competently participate in the regulatory sandbox.*
- (2) *When an applicant is approved for participation in the regulatory sandbox, the director may provide notice of the approval to competitors of the applicant and to the public.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) *Once an application is approved by the regulatory relief office, the sandbox participant has twelve (12) months after the day on which the application was approved to demonstrate the offering described in the sandbox participant's application.*
- (2) *An offering that is demonstrated within the regulatory sandbox shall be subject to the following:*
 - (a) *Each consumer shall be a resident of the state; and*
 - (b) *No administrative regulation shall be suspended to preclude any person from recovering civil liability damages or workers' compensation damages from the sandbox participant in the event that person is harmed as a result of the sandbox participant's product, conduct, or both.*
- (3) *This section shall not restrict a sandbox participant who holds a license or other authorization in another jurisdiction from acting in accordance with that license or other authorization.*
- (4) *A sandbox participant is deemed to possess an appropriate license or other authorization under the laws of the state for the purposes of any provision of federal law requiring licensure or other authorization by the state.*
- (5) *Subject to subsection (6) of this section:*
 - (a) *During the demonstration period, a sandbox participant shall not be subject to the enforcement of administrative regulations identified in the written agreement between the regulatory relief office and the sandbox pursuant to subsection (6) of Section 6 of this Act;*
 - (b) *A prosecutor shall not file or pursue charges pertaining to an administrative regulation identified in the written agreement between the regulatory relief office and the sandbox participant described in subsection (6) of Section 6 of this Act that occurs during the demonstration period; and*
 - (c) *A state agency shall not file or pursue any punitive action against a sandbox participant, including a fine or license suspension or revocation, for the violation of an administrative regulation that:*
 1. *Is identified as being waived or suspended in the written agreement between the regulatory relief office and the sandbox participant described in subsection (6) of Section 6 of this Act; and*
 2. *Occurs during the demonstration period.*
- (6) *Notwithstanding any other provision of Sections 1 to 9 of this Act, a sandbox participant shall not have immunity related to any criminal offense committed during the sandbox participant's participation in the regulatory sandbox.*
- (7) *By written notice, the regulatory relief office may end a sandbox participant's participation in the regulatory sandbox at any time and for any reason, including if the director determines that a sandbox participant is not operating in good faith to bring an innovative offering to market.*
- (8) *The regulatory relief office and the employees of the regulatory relief office shall not be liable for any business losses or the recouping of application expenses or other expenses related to the regulatory sandbox, including for:*
 - (a) *Denying an applicant's application to participate in the regulatory sandbox for any reason; or*

- (b) *Ending a sandbox participant's participation in the regulatory sandbox at any time and for any reason.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) *The director shall submit an annual written report to the Attorney General on the activities of the regulatory relief office, which includes:*

- (a) *Information regarding each participant in the regulatory sandbox created in Section 4 of this Act, including which industries each participant represents and the anticipated or actual cost savings that each participant experienced;*
- (b) *Recommendations regarding any administrative regulations that should be permanently modified;*
- (c) *Information regarding outcomes for consumers; and*
- (d) *Recommendations for changes to the regulatory sandbox or other duties of the regulatory relief office.*

- (2) *The Attorney General shall provide a written report on the activities of the regulatory relief office to the Governor and the Legislative Research Commission by October 1 of each year, which shall include the director's report submitted under subsection (1) of this section.*

➔Section 10. KRS 15.010 is amended to read as follows:

- (1) The Attorney General is the head of the Department of Law.
- (2) The Department of Law shall include the following major organizational units:
- (a) Department of Criminal Litigation;
1. Department of Criminal Investigations;
 - a. Public Corruption Division;
 - b. Special Victims Division;
 - c. Special Investigations Division; and
 - d. Protective Intelligence Division;
 2. Office of Special Prosecutions;
 3. Office of Medicaid Fraud and Abuse Control;
 4. Office of Trafficking and Abuse Prevention and Prosecution;
 5. Office of Prosecutors Advisory Council; and
 6. Office of Victims Advocacy;
- (b) Department of Civil Litigation;
1. Office of Consumer Protection;
 2. Office of Civil and Environmental Law;
 - a. Open Records and Meetings Division; and
 - b. Administrative Hearings Division;
 3. Office of Rate Intervention; and
 4. Office of Senior Protection;
- (c) Office of the Solicitor General;
1. Criminal Appeals Division; and
 2. Civil Appeals Division;
- (d) Office of Legal Counsel;
- (e) Office of Communications;~~and~~

(f) Office of Administrative Services; *and*

(g) *Kentucky Office of Regulatory Relief.*

➔Section 11. KRS 13A.250 is amended to read as follows:

- (1) An administrative body that promulgates an administrative regulation shall consider the cost that the administrative regulation may cause state or local government and regulated entities to incur.
- (2)
 - (a) A two (2) part cost analysis shall be completed for each administrative regulation.
 - (b) The first part of the cost analysis shall include the projected cost or cost savings to the Commonwealth of Kentucky and each of its affected agencies, and the projected cost or cost savings to affected local governments, including cities, counties, fire departments, and school districts.
 - (c) The second part of the cost analysis shall include the projected cost or cost savings to the regulated entities affected by the administrative regulation.
 - (d) Agencies or entities affected by the administrative regulation may submit comments in accordance with KRS 13A.270(1) to the promulgating administrative body or to a legislative committee reviewing the administrative regulation.
- (3) Each administrative body that promulgates an administrative regulation shall prepare and submit with the administrative regulation a fiscal note. The fiscal note shall state:
 - (a) The number of the administrative regulation;
 - (b) The name, e-mail address, and telephone number of the contact person of the administrative body identified pursuant to KRS 13A.220(6)(d), and, if applicable, the name, e-mail address, and telephone number of an alternate person to be contacted with specific questions about the fiscal note;
 - (c) Each unit, part, or division of state or local government the administrative regulation will affect;
 - (d) In detail, the aspect or service of state or local government to which the administrative regulation relates, including identification of the applicable state or federal statute or regulation that mandates the aspect or service or authorizes the action taken by the administrative regulation;
 - (e) The estimated effect of the administrative regulation on the expenditures and revenues of a state or local government agency or regulated entity for the first full year the administrative regulation will be in effect. ~~The [if specific dollar estimates cannot be determined, the]~~ administrative body shall provide a ~~brief~~ narrative to explain the fiscal impact of the administrative regulation ***and the methodology and resources it used to determine the fiscal impact***; and
 - (f) The conclusion of the promulgating administrative body as to whether the administrative regulation will have a major economic impact, as defined in KRS 13A.010, to state and local government and regulated entities, ***and an explanation of the methodology and resources used by the administrative body to reach this conclusion.***
- (4) Any administrative body may request the advice and assistance of the Commission in the preparation of the fiscal note.

➔Section 12. KRS 304.3-705 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, on or before December 31, 2025, a person may apply to the department for admission to the sandbox by submitting an application in the form prescribed by the commissioner, accompanied by the following:
 - (a) A filing fee of seven hundred fifty dollars (\$750);
 - (b) A detailed description of the innovation, which shall include:
 1. An explanation of how the innovation will:
 - a. Add value to customers and serve the public interest;
 - b. Be economically viable for the applicant;
 - c. Provide suitable consumer protection; and
 - d. Not pose an unreasonable risk of consumer harm;

2. A detailed description of the statutory and regulatory issues that may prevent the innovation from being currently utilized, issued, sold, solicited, distributed, or advertised in the market;
 3. A description of how the innovation functions and the manner in which it will be offered or provided;
 4. If the innovation involves the use of software, hardware, or other technology developed for the purpose of implementing or operating it, a technical white paper setting forth a description of the operation and general content of technology to be utilized, including:
 - a. The problem addressed by that technology; and
 - b. The interaction between that technology and its users;
 5. If the innovation involves the issuance of a policy of insurance, a statement that either:
 - a. If the applicant will be the insurer on the policy, that the applicant holds a valid certificate of authority and is authorized to issue the insurance coverage in question; or
 - b. If some other person will be the insurer on the policy, that the other person holds a valid certificate of authority and is authorized to issue the insurance coverage in question; and
 6. A statement by an officer of the applicant certifying that no product, process, method, or procedure substantially similar to the innovation has been used, sold, licensed, or otherwise made available in this Commonwealth before the effective filing date of the application;
- (c) The name, contact information, and bar number of the applicant's insurance regulatory counsel, which shall be a person with experience providing insurance regulatory compliance advice;
- (d) A detailed description of the specific conduct that the applicant proposes should be permitted by the limited no-action letter;
- (e) Proposed terms and conditions to govern the applicant's beta test, which shall include:
1. Citation to the provisions of Kentucky law that should be excepted in the notice of acceptance issued under KRS 304.3-710(6); and
 2. Any request for an extension of the time period for a beta test under KRS 304.3-720(1) and the grounds for the request;
- (f) Proposed metrics by which the department may reasonably test the innovation's utility during the beta test;
- (g) Disclosure of all:
1. Persons who are directors and executive officers of the applicant;
 2. General partners of the applicant if the applicant is a limited partnership;
 3. Members of the applicant if the applicant is a limited liability applicant;
 4. Persons who are beneficial owners of ten percent (10%) or more of the voting securities of the applicant;
 5. Other persons with direct or indirect power to direct the management and policies of the applicant by contract, other than a commercial contract for goods or nonmanagement services; and
 6. Conflicts of interest with respect to any person listed in this paragraph and the department;
- (h) A statement that the applicant has funds of at least twenty-five thousand dollars (\$25,000) available to guarantee its financial stability through one (1) or a combination of any of the following:
1. A contractual liability insurance policy;
 2. A surety bond issued by an authorized surety;
 3. Securities of the type eligible for deposit by authorized insurers in this Commonwealth;
 4. Evidence that the applicant has established an account payable to the commissioner in a federally insured financial institution in this Commonwealth and has deposited money of the United States

in an amount equal to the amount required by this paragraph that is not available for withdrawal, except by direct order of the commissioner;

5. A letter of credit issued by a qualified United States financial institution as defined in KRS 304.9-700; or
 6. Another form of security authorized by the commissioner; and
- (i) A statement confirming that the applicant is not seeking authorization for, nor shall it engage in, any conduct that would render the applicant unauthorized to make an application under subsection (2) of this section.
- (2) (a) The following persons shall not be authorized to make an application to the department for admission to the sandbox:
1. Any person seeking to sell or license an insurance innovation directly to any federal, state, or local government entity, agency, or instrumentality as the insured person or end user of the innovation;
 2. Any person seeking to sell, license, or use an insurance innovation that is not in compliance with subsection (1)(b)5. of this section;
 3. Any person seeking to make an application that would result in the person having more than five (5) active beta tests ongoing within the Commonwealth at any one (1) time; and
 4. Any person seeking a limited or extended no-action letter or exemption from any administrative regulation or statute concerning:
 - a. Assets, deposits, investments, capital, surplus, or other solvency requirements applicable to insurers;
 - b. Required participation in any assigned risk plan, residual market, or guaranty fund;
 - c. Any licensing or certificate of authority requirements; or
 - d. The application of any taxes or fees.
- (b) For the purposes of this subsection, "federal, state, or local government entity, agency, or instrumentality" includes any county, city, municipal corporation, urban-county government, charter county government, consolidated local government, unified local government, special district, special purpose governmental entity, public school district, or public institution of education.
- (3) ***Notwithstanding any other provision of this chapter, a person regulated under this chapter may participate in the regulatory sandbox described in Section 4 of this Act if the person is:***
- (a) ***Not authorized to make an application under this section; or***
 - (b) ***Seeking regulatory relief that is not available under KRS 304.3-700 to 304.3-735.***

➔Section 13. The initial appointments to the General Regulatory Sandbox Advisory Committee under subsection (2)(a) and (c) of Section 2 of this Act shall be staggered to provide continuity, as follows:

- (1) Four members shall serve a term of three years;
- (2) Two members shall serve a term of two years; and
- (3) One member shall serve a term of one year.

➔Section 14. This Act takes effect March 15, 2024.

Became law without Governor's signature March 29, 2023.

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

➔ Section 1. KRS 286.4-530 is amended to read as follows:

- (1) (a) Every licensee may lend any sum of money not exceeding fifteen thousand dollars (\$15,000), excluding charges, and may charge, contract for, and receive **on any loan** ~~thereon~~ charges not in excess of:
 1. **If the original principal amount of the loan, excluding charges, does not exceed five thousand dollars (\$5,000)**, three percent (3%) per month on: ~~any loan where~~
 - a. The original principal amount of the loan; **and**
 - b. **Any charges, including fees, costs, expenses, or other amounts, authorized by this subtitle on the loan contract;** ~~is not in excess of three thousand dollars (\$3,000) and~~
 2. **If the original principal amount of the loan, excluding charges, exceeds five thousand dollars (\$5,000) but does not exceed ten thousand dollars (\$10,000)**, two **and forty-two hundredths** percent (2.42%~~[2%]~~) per month on: ~~any loan where~~
 - a. The original principal amount of the loan; **and**
 - b. **Any charges, including fees, costs, expenses, or other amounts, authorized by this subtitle on the loan contract; and** ~~exceeds three thousand dollars (\$3,000)~~
 3. **If the original principal amount of the loan, excluding charges, exceeds ten thousand dollars (\$10,000)**, two **and one-fourth percent (2.25%) per month on:**
 - a. **The original principal amount of the loan; and**
 - b. **Any charges, including fees, costs, expenses, or other amounts, authorized by this subtitle on the loan contract.**
 - (b) ~~The~~ ~~Such~~ charges **authorized under paragraph (a) of this subsection** shall be computed in advance at the agreed rate on scheduled unpaid principal balances of the cash advance on the assumption that all scheduled payments will be made when due.
 - (c) The total amount of ~~such~~ ~~the~~ precomputed charges **under paragraph (b) of this subsection** shall be added to the original cash advance and **other charges, including fees, costs, expenses, or other amounts, authorized by this subtitle on the loan contract, and** the resulting sum shall become the face amount of the note.
 - (d) Every **loan** payment may be applied to the **face amount of the note** ~~combined total of the cash advance and precomputed charges~~ until the **loan** contract is paid in full.
- (2) For the purposes of computation **under subsection (1) of this section:** ~~;~~
 - (a) Whether at the maximum rate or less: ~~;~~
 1. A month shall be that period of time from any date in a month to the corresponding date in the next month and, if there is no ~~such~~ corresponding date **in the next month**, then to the last day of ~~that~~ ~~such~~ month; ~~;~~ and
 2. A day shall be considered one-thirtieth (1/30) of a month when ~~the~~ ~~such~~ computation is made for a fraction of a month; **and** ~~;~~
 - (b) The portion of the charges applicable to any particular monthly installment period, as originally scheduled or following a deferment, shall bear the same ratio to the total charges, excluding any adjustments made pursuant to subsection (3) of this section, as the balance scheduled to be outstanding during that monthly period bears to the sum of all monthly balances scheduled originally by the **loan** contract ~~of loan~~.
 - (3) **For any loan contract**, a licensee and borrower may agree: ~~that the~~
 - (a) **On a first installment date that is** ~~may be~~ not more than fifteen (15) days more than one (1) month; and
 - (b) **That** the amount of **the first** ~~such~~ installment may be increased by one-thirtieth (1/30) of the portion of the charges applicable to a first installment period of one (1) month for each extra day.
 - (4) If one-half (1/2) or more of any installment remains unpaid more than seven (7) days after it is due, ~~at the~~ licensee may charge and collect a default charge not exceeding two cents (**\$0.02**) ~~(2¢)~~ for each dollar of the

scheduled installment, and ~~this[such]~~ charge may be collected for each full month the installment remains unpaid.

- (5) (a) If the payment of all wholly unpaid installments on which no default charge has been collected is deferred one (1) or more full months, ~~a[the]~~ licensee may charge and collect a deferment charge not exceeding two cents ~~(\$0.02)[(2¢)]~~ for each one dollar (\$1) of the sum of the installments so deferred, multiplied by the number of months the maturity of the contract is extended, ~~except the[; provided, however, that]~~ ~~however, that such~~ number of months *extended* shall not exceed the number of installments which are due and wholly unpaid or due within fifteen (15) days from the date of deferment.
- (b) The deferment charge may be collected at the time of deferment or at any time thereafter.
- (c) Any payment received at the time of deferment may be applied first to the deferment charge and the remainder, if any, applied to the unpaid balance of the *loan* contract, ~~except[; provided, however, that]~~ if ~~the[such]~~ payment is sufficient to pay, in addition to the appropriate deferment charge, any installment which is in default and the applicable default charge, it shall be first so applied and ~~that[any such]~~ installment shall not be deferred or subject to the deferment charge.
- (d) At the time a deferment is made, the borrower shall be given a statement or receipt showing:
1. The amount of the deferment charge;~~[;]~~
 2. The date and amount of the next scheduled payment;~~[;]~~ and
 3. The number of remaining scheduled payments.
- (6) (a) *Except as otherwise provided in this subsection*, if a *loan*~~[the] contract[of loan]~~ is prepaid in full by cash, a new loan, or otherwise before the final installment date, the portion of the charges applicable to the full installment periods following the installment date nearest the date of prepayment shall be refunded.
- (b) Any default or deferment charges which are due and unpaid *on the loan contract* may be deducted from ~~the[such]~~ refund *required under this subsection*.
- (c) ~~Any[The]~~ tender *made* by ~~a[the]~~ borrower or at his *or her* request of an amount equal to the unpaid balance less the *refund* required *under this subsection shall*~~[refund must]~~ be accepted by ~~a[the]~~ licensee in full payment of the *loan* contract.
- (d) If judgment is obtained before the final installment date, the contract balance shall be reduced by the refund which would be required for prepayment in full as of the date judgment is obtained.
- (e) *A licensee shall not be required to make a refund:*~~[No refund]~~
1. Of less than one dollar (\$1); ~~or[need be made; no refund]~~
 2. For partial prepayments~~[need be made]~~.
- (7) If two (2) or more full installments are in default for one (1) full month or more at any installment date and if the *loan* contract so provides, ~~a[the]~~ licensee may reduce the contract balance by the refund or credit which would be required for prepayment in full on ~~the[such]~~ installment date. Thereafter, in lieu of charging, collecting, or receiving charges as provided in subsections (1) to (6)~~[inclusive]~~ of this section, charges may be charged, collected, and received as provided ~~in[by]~~ subsection (8) of this section until the *loan* contract is fully paid.
- (8) (a) In lieu of computing and collecting charges as provided in subsections (1) to (6)~~[inclusive]~~ of this section, a licensee may contract for, collect, and receive on loans of fifteen thousand dollars (\$15,000) or less charges as permitted in subsection (1) of this section computed on the unpaid~~[principal]~~ balance of the loan from time to time outstanding.
- (b) ~~The[such]~~ charges *permitted under paragraph (a) of this subsection* shall not be paid, deducted, received in advance, or compounded, but shall be computed, collected, and received only on unpaid~~[principal]~~ balances for the time actually outstanding.
- (c) The definition of a month and of a day in subsection (2) of this section shall apply for the purposes of ~~the[such]~~ computations *under this subsection*.
- (9) If part or all of the consideration for a *loan* contract~~[of loan]~~ is the unpaid principal balance of a prior loan with the same licensee, then the principal amount payable under *the new loan*~~[such contract of loan shall not~~

include any unpaid charges on the prior loan except such charges which have accrued within sixty (60) days before the making of such new contract of loan and] may include the balance remaining *on the prior loan* after giving the refund required by subsection (6) of this section.

- (10) (a) In addition to the charges provided for in this subtitle, no further charge or amount whatsoever for any examination, service, brokerage, commission, expense, fee, ~~or~~ bonus, or other thing shall be directly or indirectly charged, contracted for, or received, **for an extension of credit under this subtitle** except:
1. The lawful fees actually and necessarily paid out by the licensee to any public official for filing, recording, or releasing in any public office any instrument securing the loan;
 2. The identifiable charge of premium for insurance provided for in KRS 286.4-560; ~~and~~
 3. Fees for noting or releasing a lien on or transferring a certificate of title to any motor vehicle offered as security for a loan made under this subtitle.
- (b) If any amount in excess of the amounts authorized by this subtitle is charged, contracted for, or received, except as the result of an accidental or bona fide error, the lender shall have no right to collect or receive any charges whatsoever.
- (11) (a) ~~A~~ licensee shall **not** induce or permit **a person** ~~any borrower to split up or divide any loan nor permit any one (1) borrower~~ to become **obligated to the licensee, directly or contingently, or both** ~~indebted to him~~ under **any** ~~more than one (1) loan~~ contract ~~of loan~~ **entered into within ten (10) days of the origination of another loan contract with the same person for the purpose or with the result of obtaining charges** ~~at the same time if the actual amount of the indebtedness on any one (1) of such contracts is in the amount or of the value of fifteen thousand dollars (\$15,000) or less and there is charged, contracted for, or received thereon, directly or indirectly, by any device, subterfuge, or pretense whatsoever, any interest, or consideration therefor~~ greater than would otherwise be permitted by this subtitle.
- (b) **For a second or subsequent loan made by a licensee to any person outside of the ten (10) day period referenced in paragraph (a) of this subsection, the licensee shall not be required to limit the loan charges to the aggregate amount of what the loans combined would dictate under this subtitle.**
- (12) ~~A~~ licensee shall **not** directly or indirectly charge, contract for, or receive any interest or consideration greater than the lender would be permitted by law to charge if **the lender** ~~he~~ were not a licensee: ~~hereunder~~
- (a) Upon any loan in the amount or of the value of more than fifteen thousand dollars (\$15,000), excluding charges; ~~or~~
- (b) In any case in which the licensee permits any individual as borrower, indorser, guarantor, or surety for any borrower, or otherwise, to owe on any loan or loans directly or contingently, or both, to the licensee at any time the sum of more than fifteen thousand dollars (\$15,000) ~~for principal~~, excluding charges.

➔ Section 2. KRS 286.4-533 is amended to read as follows:

Notwithstanding the provisions of KRS 286.4-530(10) or ~~of~~ any other law, in any extension of credit **under** ~~in accordance with~~ this subtitle, **a** ~~the~~ licensee may charge and collect the following **charges**:

- (1) A fee, or premium for insurance, in lieu of perfecting a security interest, **except in no event shall** ~~to the extent that~~ the fee or premium ~~does not~~ exceed the fee payable to public officials for perfecting the security interest;
- (2) A **returned payment** ~~bad check~~ charge of twenty-five dollars (\$25) ~~or~~ the amount passed on from other financial institutions **and payment processors**, whichever is greater, for **each** ~~any~~ check, draft, **electronic fund transfer**, negotiable order of withdrawal, or **electronic payment** ~~like instrument~~ returned, **unpaid**, or **otherwise** dishonored for any reason ~~by a depository institution~~, which charge **the** licensee may charge and collect ~~or~~ through regular billing procedures, or otherwise, from the borrower;
- (3) A reasonable attorney's fee, in connection with the collection of a loan, actually incurred by the licensee and paid **or payable** to an attorney who is not an employee of the licensee;
- (4) (a) A loan processing fee of five percent (5%) of the original principal amount of the loan, **which** ~~This~~ charge shall be limited to a maximum of one hundred fifty dollars (\$150).
- (b) Any **loan processing fee** ~~charge~~ collected up to, and including, **seventy-five** ~~fifty~~ dollars (**\$75** ~~\$50~~) shall be nonrefundable.

- (c) In the event of prepayment, any *portion of a* loan processing fee above ~~seventy-five~~ [fifty] dollars (\$75[~~\$50~~]) shall be subject to refund in the same manner as other charges pursuant to KRS 286.4-530(6).
- (d) A loan processing fee may only be charged once on a loan ~~or refinance~~ within any ninety (90) day period;
- (5) (a) An alternative to the default charge described in KRS 286.4-530(4), not to exceed five percent (5%) of each scheduled installment~~;~~ or fifteen dollars (\$15), whichever is greater.
- (b) Only one (1) charge may be collected for each scheduled installment;~~and~~
- (6) Costs or other expenses authorized for a secured party in accordance with KRS 355.9-207 and 355.9-607; *and*
- (7) *If the borrower requests loan funding in a manner other than by physical check, a funding fee of three dollars (\$3) per loan for distributing the loan proceeds in the manner requested by the borrower.*

Became law without Governor's signature March 29, 2023.

CHAPTER 124

(SB 48)

AN ACT relating to state government operations.

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

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

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

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

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- (4) Department of Law.
 - (a) Attorney General.
- (5) Department of the Treasury.
 - (a) Treasurer.
- (6) Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Agricultural Development Board.
 - (c) Kentucky Agricultural Finance Corporation.

(7) Auditor of Public Accounts.

(a) Commonwealth Office of the Ombudsman.

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) 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) 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.
 - 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.
- (4) 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) Cabinet for Economic Development:
- (a) Office of the Secretary.
 1. Office of Legal Services.
 2. Department for Business Development.
 3. Department for Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Finance and Personnel Division.
 - c. IT and Resource Management Division.
 - d. Compliance Division.
 - e. Incentive Administration Division.

ACTS OF THE GENERAL ASSEMBLY

- 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) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - 1. ~~Office of the Ombudsman and Administrative Review.~~
 - 2. ~~Office of Public Affairs.~~
 - 2.~~3.~~ Office of Legal Services.
 - 3.~~4.~~ Office of Inspector General.
 - 4.~~5.~~ Office of Human Resource Management.
 - 5.~~6.~~ Office of Finance and Budget.
 - 6.~~7.~~ Office of Legislative and Regulatory Affairs.
 - 7.~~8.~~ Office of Administrative Services.
 - 8.~~9.~~ Office of Application Technology Services.
 - 9.~~10.~~ Office of Data Analytics.
 - (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.~~
- (7) 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.
- (x) Office of Fleet Management.
- (8) 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 Purchasing.
 - 5. Division of Facilities.
 - 6. Division of Park Operations.
 - 7. Division of Sales, Marketing, and Customer Service.
 - 8. Division of Engagement.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - (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) 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.
 - f. Employment First Council.
 - 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.
- (x) ***Disability Determination Services Program.***

III. Other departments headed by appointed officers:

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

➔Section 2. KRS 13B.020 is amended to read as follows:

- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.
- (2) The provisions of this chapter shall not apply to:
 - (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
 - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
 - (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
 - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
 - (e) Administrative hearings conducted by the legislative and judicial branches of state government;
 - (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
 - (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
 - (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
 - (i) Administrative hearings exempted pursuant to subsection (3) of this section;
 - (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
 - (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.
- (3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:
 - (a) Finance and Administration Cabinet
 - 1. Higher Education Assistance Authority

- a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
 - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
2. Department of Revenue
- a. Any licensing and bond revocation hearings conducted under the authority of KRS 138.210 to 138.448 and 234.310 to 234.440
 - b. Any license revocation hearings under KRS 131.630 and 138.130 to 138.205
- (b) Cabinet for Health and Family Services
1. Office of the Inspector General
- 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
 - 4. ***Disability determination hearings conducted under authority of 20 C.F.R. pt. 404***
- (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) Secretary of State
 - 1. Registry of Election Finance
 - a. Campaign finance hearings conducted under authority of KRS Chapter 121
- (h) State universities and colleges
 - 1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
 - 2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
 - 3. Campus residency hearings conducted under authority of KRS Chapter 164
 - 4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
 - 5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.
- (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:
 - (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;
 - (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
 - (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

- (5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.
- (6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.
- (7) The provisions of KRS 13B.030(2)(b) shall not apply to administrative hearings held under KRS 11A.100 or 18A.095.

➔Section 3. KRS 15.055 is amended to read as follows:

- (1) The Office of the Attorney General shall **produce** ~~[receive from the Cabinet for Health and Family Services]~~ a list of names of delinquent obligors as defined in administrative regulations promulgated under this section.
- (2) The Office of the Attorney General ~~[in cooperation with the Cabinet for Health and Family Services]~~ shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.
- (3) The Office of the Attorney General shall:
 - (a) Publish and update the list on an appropriate agency Internet site; and
 - (b) Distribute to all designees~~[of the cabinet]~~ for the administration of the child support program, a "most wanted" poster that includes names, and photos if available, of delinquent obligors whose whereabouts are unknown or unverified, or who if known, refuse to meet their child support obligations. The poster shall be posted locally by the designee~~[of the cabinet]~~ for the administration of the child support program in public locations.

➔Section 4. KRS 15.111 is amended to read as follows:

- (1) The Division of Administrative Hearings is created in the Office of Attorney General.
- (2) This division shall have the following responsibilities:
 - (a) Employing and maintaining a pool of hearing officers for assignment to the individual agencies at their request, for the conduct of administrative hearings. The Attorney General's office may also employ other staff as necessary to carry out functions and responsibilities assigned by KRS Chapter 13B;
 - (b) Reviewing and approving or disapproving requests from agencies for waivers from provisions of KRS Chapter 13B;
 - (c) Providing training in administrative hearing procedures for hearing officers as required in KRS 13B.030, either by developing and offering the training, or by contracting with appropriate organizations for the provision of training, or by approving training developed and submitted by the agencies;
 - (d) Consulting with the Personnel Cabinet and employing agencies in the establishment of relevant and appropriate qualifications for classes of hearing officers;
 - (e) Establishing, in cooperation with the Division of Consumer Protection, a clearinghouse for complaints concerning the administrative hearing process in Kentucky. Each complaint received shall be referred to the agency that is the subject of the complaint, and the action of the agency to resolve the complaint shall be noted and reported to the division;
 - (f) Reporting to the Legislative Research Commission by July 1 of each odd-numbered year, the status of the administrative hearing process in Kentucky. The report shall include a compilation of statistical data and other information necessary to assess the effectiveness and efficiency of hearing procedures and recommendations for making improvements to the system. Agencies shall provide the information requested by the Division of Administrative Hearings necessary to complete the report;
 - (g) ***Reporting to the Cabinet for Health and Family Services, Office of Inspector General for review and investigation:***

1. *Any charge or case against any employee of the Cabinet for Health and Family Services where it has cause to believe the employee has engaged in dishonest, unethical, or illegal conduct or practices related to his or her job duties; or*
 2. *Any violation of state law or administrative regulation by any organization or individual regulated by, or contracted with, the Cabinet for Health and Family Services; and*
- (h) *Conducting and providing oversight of administrative hearings as it relates to the Cabinet for Health and Family Services.*

➔Section 5. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary. Within the Office of the Secretary, there shall be an ~~Office of the Ombudsman and Administrative Review, an~~ Office of Legal Services, an Office of Inspector General, an Office of Public Affairs, an Office of Human Resource Management, an Office of Finance and Budget, an Office of Legislative and Regulatory Affairs, an Office of Administrative Services, an Office of Application Technology Services and an Office of Data Analytics, as follows:
 - (a) ~~The Office of the Ombudsman and Administrative Review shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and shall:~~
 1. ~~Investigate, upon complaint or on its own initiative, any administrative act of an organizational unit, employee, or contractor of the cabinet, without regard to the finality of the administrative act. Organizational units, employees, or contractors of the cabinet shall not willfully obstruct an investigation, restrict access to records or personnel, or retaliate against a complainant or cabinet employee;~~
 2. ~~Make recommendations that resolve citizen complaints and improve governmental performance and may require corrective action when policy violations are identified;~~
 3. ~~Provide evaluation and information analysis of cabinet performance and compliance with state and federal law;~~
 4. ~~Place an emphasis on research and best practices, program accountability, quality service delivery, and improved governmental performance;~~
 5. ~~Provide information on how to contact the office for public posting at all offices where Department for Community Based Services employees or contractors work, at any facility where a child in the custody of the cabinet resides, and to all cabinet or contracted foster parents;~~
 6. ~~Report to the Office of Inspector General for review and investigation any charge or case against an employee of the Cabinet for Health and Family Services where it has cause to believe the employee has engaged in dishonest, unethical, or illegal conduct or practices related to his or her job duties; or any violation of state law or administrative regulation by any organization or individual regulated by, or contracted with the cabinet;~~
 7. ~~Compile a report of all citizen complaints about programs or services of the cabinet and a summary of resolution of the complaints and submit the report upon request to the Interim Joint Committee on Health and Welfare and Family Services;~~
 8. ~~Include oversight of administrative hearings; and~~
 9. ~~Provide information to the Office of the Attorney General, when requested, related to substantiated violations of state law against an employee, a contractor of the cabinet, or a foster or adoptive parent;~~
 - (b) ~~The Office of Legal Services shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105;~~

- ~~(b)~~~~(e)~~ The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary. The Office of Inspector General shall be responsible for:
1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
 2. Licensing and regulatory functions as the secretary may delegate;
 3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.1911 to 311.1959, 311.1961, and 311.1963;
 4. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeals functions, pursuant to KRS Chapter 216B;
 5. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority;
 6. The oversight of the operations of the Kentucky Health Information Exchange; and
 7. The support and guidance to health care providers related to telehealth services, including the development of policy, standards, resources, and education to expand telehealth services across the Commonwealth;
- ~~(c)~~~~(d)~~ The Office of Public Affairs shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide information to the public and news media about the programs, services, and initiatives of the cabinet;
- ~~(d)~~~~(e)~~ The Office of Human Resource Management shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall coordinate, oversee, and execute all personnel, training, and management functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality improvement services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions;
- ~~(e)~~~~(f)~~ The Office of Finance and Budget shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide central review and oversight of budget, contract, and cabinet finances. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary;
- ~~(f)~~~~(g)~~ The Office of Legislative and Regulatory Affairs shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide central review and oversight of legislation, policy, and administrative regulations. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary;
- ~~(g)~~~~(h)~~ The Office of Administrative Services shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide central review and oversight of procurement, general accounting including grant monitoring, and facility management. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary;
- ~~(h)~~~~(i)~~ The Office of Application Technology Services shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide application technology services including central review and oversight. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary; and
- ~~(i)~~~~(j)~~ The Office of Data Analytics shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and shall identify and innovate strategic initiatives to inform public policy initiatives and provide opportunities for improved health outcomes

for all Kentuckians through data analytics. The office shall provide leadership in the redesign of the health care delivery system using electronic information technology to improve patient care and reduce medical errors and duplicative services;

- (2) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (3) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. This shall include but not be limited to oversight of the Division of Women's Health *and the Office for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the Department for Public Health. The Department for Public Health shall advocate for the rights of children with disabilities and, to the extent that funds are available, shall ensure the administration of services for children with disabilities as are deemed appropriate by this office pursuant to Title V of the Social Security Act. The Department for Public Health may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The Office for Children with Special Health Care Needs may be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.* The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (4) Department for Behavioral Health, Developmental and Intellectual Disabilities. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall develop and administer programs for the prevention of mental illness, intellectual disabilities, brain injury, developmental disabilities, and substance use disorders and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, or who have an intellectual disability, brain injury, developmental disability, or a substance use disorder. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall be headed by a commissioner for behavioral health, developmental and intellectual disabilities who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for behavioral health, developmental and intellectual disabilities shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for behavioral health, developmental and intellectual disabilities shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;
- (5) ~~{Office for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the office. The office shall advocate the rights of children with disabilities and, to the extent that funds are available, shall ensure the administration of services for children with disabilities as are deemed appropriate by this office pursuant to Title V of the Social Security Act. The office may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Office for Children with Special Health Care Needs shall be performed through the office of the executive director. The executive director shall be appointed by the secretary with the approval of the Governor under KRS 12.050;~~
- (6) }Department for Family Resource Centers and Volunteer Services. The Department for Family Resource Centers and Volunteer Services shall streamline the various responsibilities associated with the human services programs for which the cabinet is responsible. This shall include, but not be limited to, oversight of the Division of Family Resource and Youth Services Centers and Serve Kentucky. The Department for Family

Resource Centers and Volunteer Services shall be headed by a commissioner who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for family resource centers and volunteer services shall be by training and experience in administration and management qualified to perform the duties of the office, shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;

~~(6)~~~~(7)~~ Department for Community Based Services. The Department for Community Based Services shall administer and be responsible for child and adult protection, *guardianship services*, violence prevention resources, foster care and adoption, permanency, and services to enhance family self-sufficiency, including child care, social services, public assistance, and family support. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

~~(7)~~~~(8)~~ Department for Income Support. The Department for Income Support shall be responsible for child support enforcement and disability determination. The department shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, and shall have responsibility for determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and

~~(8)~~~~(9)~~ Department for Aging and Independent Living. The Department for Aging and Independent Living shall serve as the state unit as designated by the Administration on Aging Services under the Older Americans Act and shall have responsibility for administration of the federal community support services, in-home services, meals, family and caregiver support services, elder rights and legal assistance, senior community services employment program, the state health insurance assistance program, state home and community based services including home care, Alzheimer's respite services and the personal care attendant program, certifications of assisted living facilities, *and* the state Council on Alzheimer's Disease and other related disorders ~~and guardianship services~~. The department shall also administer the Long-Term Care Ombudsman Program and the Medicaid Home and Community Based Waivers Participant Directed Services Option (PDS) Program. The department shall serve as the information and assistance center for aging and disability services and administer multiple federal grants and other state initiatives. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.

➔Section 6. 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 *Office of the Attorney General's* ~~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 7. KRS 194A.120 is amended to read as follows:

~~]~~The Office for Children with Special Health Care Needs and ~~]~~The State Interagency Council for Services and Support to Children and Transition-Age Youth shall be the only statutory ~~body~~~~ies~~ attached to the cabinet that shall have the authority to issue administrative regulations. No other corporate body or instrumentality of the Commonwealth, advisory committee, interstate compact, or other statutory body, presently attached to the cabinet, shall issue administrative regulations but shall operate only in an advisory capacity.

➔Section 8. KRS 205.710 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows::

As used in *Sections 8 to 46 of this Act*~~[KRS 205.712 to 205.800]~~, unless the context clearly dictates otherwise:

- (1) "Cabinet" shall mean the Cabinet for Health and Family Services;
- (2) ~~["Secretary" shall mean the secretary of the Cabinet for Health and Family Services;~~
- ~~(3)]~~"Court order" shall mean any judgment, decree, or order of the courts of this state or any other state. For the purposes of *Sections 8 to 46 of this Act*~~[KRS 205.715 to 205.800]~~, 403.215, 405.405 to 405.520, and 530.050, it shall also include an order of an authorized administrative body;
- ~~(3)(4)~~ "Dependent child" or "needy dependent child" shall mean any person under the age of eighteen (18), or under the age of nineteen (19) if in high school, who is not otherwise emancipated, self-supporting, married, or a member of the Armed Forces of the United States and is a recipient of or applicant for services under Part D of Title IV of the Social Security Act;
- ~~(4)(5)~~ "Duty of support" shall mean any duty of support imposed or imposable by law or by court order, decree, or judgment, whether interlocutory or final, and includes the duty to pay spousal support that applies to spouses with a child even if child support is not part of the order or when spousal support is assigned to the *Office of the Attorney General*~~[cabinet]~~ and arrearages of support past due and unpaid in addition to medical support whenever health-care coverage is available at a reasonable cost;
- ~~(5)(6)~~ "Recipient" shall mean a relative or payee within the meaning of the Social Security Act and federal and state regulations who is receiving public assistance on behalf of a needy dependent child;
- ~~(6)(7)~~ "Consumer reporting agency" means any person or organization which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports;
- ~~(7)(8)~~ "Obligor" means a parent who has an obligation to provide support;
- ~~(8)(9)~~ "Employer" means any individual, sole proprietorship, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which hires and pays an individual for his services;
- ~~(9)(10)~~ "Income" means but is not limited to any of the following:
 - (a) Commissions, bonuses, workers' compensation awards attributable to lost wages, retirement and pensions, interest and disability, earnings, salaries, wages, and other income due or to be due in the future from a person's employer and successor employers;
 - (b) Any payment due or to be due in the future from a profit-sharing plan, pension plan, insurance contract, annuity, Social Security, proceeds derived from state lottery winnings, unemployment compensation, supplemental unemployment benefits, and workers' compensation; and
 - (c) Any amount of money which is due to the obligor under a support order as a debt of any other individual, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which is indebted to the obligor;
- ~~(10)(11)~~ "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and notwithstanding any other provision of law exempting such payments from garnishment, attachment, or other process to satisfy support obligations and specifically includes periodic payments from pension and retirement programs and insurance policies of any kind. Earnings shall include all gain derived from capital, from labor, or both, including profit gained through sale or conversion of capital assets and unemployment compensation benefits, or any other form of monetary gain.

The term "disposable earnings" means that part of earnings remaining after deductions of any amounts required by law to be withheld;

~~(11)(12)~~ "Enforce" means to employ any judicial or administrative remedy under KRS 405.405 to 405.420 and KRS 405.991(2) or under any other Kentucky law;

(12) "Office" means the Office of the Attorney General;

(13) "Need" includes, but is not limited to, the necessary cost of food, clothing, shelter, and medical care. The amount determined under the suggested minimum support obligation scale shall be rebuttably presumed to correspond to the parent's ability to pay and the need of the child. A parent shall be presumed to be unable to pay child support from any income received from public assistance under Title IV-A of the Social Security Act, or other continuing public assistance;

(14) "Parent" means a biological or adoptive mother or father of a child born in wedlock or a father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this or any other state, whose child is entitled to support, pursuant to court order, statute, or administrative determination; and

(15) "Real and personal property" includes all property of all kinds, including but not limited to, all gain derived from capital, labor, or both; compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise; periodic payments from pension and retirement programs; and unemployment compensation and insurance policies.

➔Section 9. KRS 205.712 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

(1) ~~]~~The Department for Income Support, Child Support Enforcement, is established in the Cabinet for Health and Family Services.

~~(2)~~]The duties of the **Office of the Attorney General**~~Department for Income Support~~, Child Support Enforcement, or its designee, shall include:

(a) Serve as state agency authorized to administer Part D of Title IV of the Social Security Act, 42 U.S.C. secs. 651 to 669;

(b) Serve as the information agency as provided in the Uniform Interstate Family Support Act, KRS Chapter 407;

(c) Serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act;

(d) Serve as the agent for enforcement of international child support obligations, and respond to requests from foreign reciprocating countries;

(e) Establish and enforce an obligation upon receipt of a completed, notarized voluntary acknowledgment-of-paternity form;

(f) Enforce Kentucky child support laws, including collection of court-ordered or administratively ordered child support arrearages and prosecution of persons who fail to pay child support;

(g) Publicize the availability of services and encourage the use of these services for establishing paternity and child support;

(h) Pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father, when paternity is administratively or judicially determined; and obtain additional testing when an original test is contested, upon request and advance payment by the contestant;

(i) Establish child support obligations and seek modification of judicially or administratively established child support obligations in accordance with the child support guidelines of the Commonwealth of Kentucky as provided under KRS 403.212;

(j) Administratively establish child support orders which shall have the same force and effect of law;

(k) Issue an administrative subpoena to secure public and private records of utility and cable companies and asset and liability information from financial institutions for the establishment, modification, or enforcement of a child support obligation;

(l) Impose a penalty for failure to comply with an administrative subpoena;

- (m) Provide notices, copies of proceedings, and determinations of support amounts to any parties or individuals who are applying for or receiving Title IV-D services, or who are parties to cases in which Title IV-D services are being provided; and
 - (n) Issue interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify, or enforce a child support obligation pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. ~~sec. [secs.]~~ 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court where the individual or entity resides.
- (3) The **Office of the Attorney General**~~[Department for Income Support]~~, Child Support Enforcement, or its designee may promulgate administrative regulations to implement this section and adopt forms or implement other requirements of federal law relating to interstate administrative subpoenas, and may amend forms by technical amendment that are mandated by the federal Office of Child Support Enforcement and incorporated by reference in administrative regulation.
 - (4) ~~[Effective September 30, 1999,]~~The **Office of the Attorney General**~~[cabinet]~~ shall ~~maintain~~~~[establish]~~ a system to receive and process all child support payments. The system shall include existing computer systems to record the payments. The automated system shall include a state case registry that contains records with respect to each case in which services are being provided by the ~~office~~~~[cabinet]~~ and each child support order established or modified in the state on or after October 1, 1998.
 - (5) The **Office of the Attorney General**~~[cabinet]~~ shall establish and operate a state disbursement unit for the collection, disbursement, and recording of payments under support orders for all Title IV-D cases and for all cases initially issued in the state on or after January 1, 1994, in which a wage withholding has been court-ordered or administratively ordered, pursuant to Part D of Title IV of the Social Security Act. Establishment of the state unit may include the designation and continuation of existing local collection units to aid efficient and effective collection, disbursement, and recording of child support payments.
 - (6) After the establishment of the disbursement unit child support collection system, the **Office of the Attorney General**~~[cabinet]~~ or its designee shall serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act.
 - (7) Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the **Office of the Attorney General**~~[cabinet]~~ shall refer cases to the appropriate official for such ~~action.~~ ~~The~~ ~~office~~~~[cabinet]~~ may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the ~~office~~~~[cabinet]~~ in administering the program of child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations. The local county attorney shall be considered the designee of the ~~office~~~~[cabinet]~~ for purposes of administering the program of child support recovery within a county, subject to the option of the county attorney to decline such designation. Nothing in this section shall prevent the **Attorney General**~~[secretary]~~ from taking such action, with prior written notice, as appropriate if the terms and conditions of the cooperative agreement are not met. When a cooperative agreement with a contracting official is canceled for good cause, the ~~office~~~~[cabinet]~~ may not offer that cooperative agreement to that official during the official's tenure.
 - (8) Where the local county attorney, friend of the court, domestic relations agent, or other designee of the **Office of the Attorney General**~~[cabinet]~~ has been contracted for the purpose of administering child support enforcement pursuant to Title IV-D of the Social Security Act, the contracting official shall be deemed to be representing the ~~office~~~~[cabinet]~~ and as such does not have an attorney-client relationship with the applicant who has requested services pursuant to Title IV-D of the Social Security Act nor with any dependent on behalf of the individuals for whom services are sought.
 - (9) The **Office of the Attorney General**~~[cabinet]~~ shall determine the name of each obligor who owes an arrearage of at least two thousand five hundred dollars (\$2,500). After notification to the obligor owing an arrearage amount of two thousand five hundred dollars (\$2,500), the ~~office~~~~[cabinet]~~ shall transmit to the United States secretary of health and human services the certified names of the individuals and supporting documentation for the denial, revocation, or limitation of the obligor's passport. The ~~office~~~~[cabinet]~~ shall notify the identified obligor of the determination and the consequences and provide an opportunity to contest the determination.
 - (10) The **Office of the Attorney General**~~[cabinet]~~ shall determine the name of an obligor owing an arrearage and shall indefinitely deny, suspend, or revoke a license or certification that has been issued if the person has a child support arrearage that equals or exceeds the amount that would be owed after six (6) months of

nonpayment or fails, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16).

- (11) The **Office of the Attorney General**~~[cabinet]~~ shall forward the name of the individual to a board of licensure or board of certification for the notification of the denial, revocation, or suspension of a driver's license, professional license or certification, occupational license or certification, recreational license, or sporting license.
- (12) The denial or suspension shall remain in effect until the child support arrearage has been eliminated or payments on the child support arrearage are being made in accordance with a court or administrative order, the person complies with the subpoena or warrant relating to paternity or child support proceedings, or the appeal of the denial or suspension is upheld and the license is reinstated.
- (13) Except for cases administered by the **Office of the Attorney General**~~[cabinet]~~ under 42 U.S.C. ~~sec.~~~~[secs.]~~ 651 et seq. which shall be afforded the appeal process set forth by KRS 405.450(3), an individual who has a license or certification denied, revoked, or suspended shall have the right to appeal to the licensing or certifying board.
- (14) A dispute hearing shall be conducted by the **Office of the Attorney General**~~[cabinet]~~ in accordance with KRS 405.450. The only basis for a dispute hearing shall be a mistake in fact.
- (15) The **Office of the Attorney General**~~[cabinet]~~ shall in its discretion enter into agreements with financial institutions doing business in the Commonwealth to develop and operate, in coordination with the financial institutions, a data match system as required by **Sections 30, 31, 32, and 33 of this Act**~~[KRS 205.772 to 205.778]~~.
- (16) The **Office of the Attorney General**~~[cabinet]~~ may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents that are needed to establish, modify, or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. ~~sec.~~~~[secs.]~~ 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.
- (17) The ~~[Cabinet for Health and Family Services shall forward to the]~~Office of the Attorney General~~[a list of names of delinquent obligors and, in cooperation with the Office of the Attorney General,]~~ shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement KRS 15.055.
- (18) The **Office of the Attorney General**~~[cabinet]~~ shall compare a quarterly report provided by the Finance and Administration Cabinet of all tort claims made against the state by individuals with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.
- (19) The **Office of the Attorney General**~~[cabinet]~~ shall prepare and distribute to the **office's**~~[cabinet's]~~ designee for the administration of the child support program information on child support collections and enforcement. The information shall include a description of how child support obligations are:
 - (a) Established;
 - (b) Modified;
 - (c) Enforced;
 - (d) Collected; and
 - (e) Distributed.
- (20) The **Office of the Attorney General's**~~[cabinet's]~~ designee for the administration of the child support program shall distribute, when appropriate, the following:
 - (a) Information on child support collections and enforcement; and
 - (b) Job listings posted by employment services.

➔Section 10. KRS 205.713 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

All forms, child support orders, wage withholding orders, or orders amending an existing child support order, entered in any case in Circuit Court, District Court, or family court that require entry into the state case registry under **subsection (4) of Section 9 of this Act**~~[KRS 205.712(4)]~~ shall be entered on forms adopted by the Administrative Office of the Courts after consultation with the **Office of the Attorney General**~~[Cabinet for Health and Family~~

~~Services~~. If the provisions of a child support order are contained in an order that is narrative in nature, the adopted forms shall be used in addition to the narrative order.

➔Section 11. KRS 205.715 is repealed and reenacted as a new section of KRS Chapter 15 to read as follows:

The payment of public assistance to or on behalf of a dependent child shall create a debt due and owing the state by the parent or parents of the child. If a court has ordered child support incident to a final divorce decree or other final order for child support, the debt shall be limited to the amount specified in the decree or order.

➔Section 12. KRS 205.720 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) By applying for Title IV-D services or accepting public assistance for or on behalf of a needy dependent child, the recipient shall be deemed to have made an assignment to the cabinet of the right to any child support or maintenance owed up to the amount of public assistance paid by the **Office of the Attorney General**~~[cabinet]~~ to the recipient~~[, including amounts which have accrued at the time the assignment is made between October 1, 1997, and September 30, 2000]~~. The ~~office~~~~[cabinet]~~ shall be subrogated to the right of the child or the person having custody to collect and receive all child support payments and to initiate any support action existing under the laws of this state.
- (2) The **Office of the Attorney General**~~[cabinet]~~ shall distribute all child support payments and assigned arrearages as required by 42 U.S.C. ~~sec.~~~~[secs.]~~ 651 et seq.
- (3) When Title IV-D services on behalf of a dependent child are terminated, current and past due court-ordered or administratively determined child support owed the child shall be payable to the physical custodian of the dependent child for the period of time the dependent child was in the physical custody of that custodian.

➔Section 13. KRS 205.721 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) All services available to individuals receiving public assistance under Title IV-A of the Federal Social Security Act benefits shall also be available to individuals not receiving public assistance benefits, upon application by the individual with the cabinet.
- (2) The **Office of the Attorney General**~~[cabinet]~~ shall continue to provide IV-D services when a family ceases to receive public assistance without requiring a formal application and without payment of the application fee specified in subsection (3) of this section. IV-D services shall be discontinued upon the request of the recipient.
- (3) Except as provided in subsection (2) of this section, the ~~office~~~~[cabinet]~~ may charge an application fee for the services based on a fee schedule, which shall take into account the applicant's net income. No application fee shall be required from individuals receiving public assistance.
- (4) The **Office of the Attorney General**~~[cabinet]~~ shall impose an annual fee of thirty-five dollars (\$35) pursuant to 42 U.S.C. sec. 654, which shall be satisfied by withholding the fee from a child support disbursement.

➔Section 14. KRS 205.725 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) Whenever the cabinet receives an application for public assistance on behalf of a needy dependent child or reviews the records of those currently receiving public assistance on behalf of a needy dependent child and it appears to the satisfaction of the cabinet that either or both parents have failed to provide support to the child, the **Office of the Attorney General**~~[cabinet]~~ shall take appropriate action under this chapter, or any other appropriate state and federal laws and regulations, to assure that the responsible parent or parents provide support to the child.
- (2) Subsection (1) of this section shall not apply if the:
 - (a) Cabinet has reason to believe allegations of child abuse or domestic violence and that enforcement of subsection (1) of this section could be harmful to the custodial parent or needy dependent child;
 - (b) Cabinet believes that enforcement of subsection (1) of this section may not be in the best interest of the needy dependent child; or
 - (c) Custodial parent is the needy dependent child's mother, and she did not identify a father on the child's birth certificate at the time of birth.

- (3) As used in *Sections 15, 17, 22, and 37 of this Act* [KRS 205.730, 205.735, 205.765, and 205.785], the term "child" includes a child of an individual who is not receiving public assistance and who is eligible to receive child support services in accordance with Title IV-D of the Social Security Act.

➔Section 15. KRS 205.730 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) Unless the *Office of the Attorney General* [cabinet] has reason to believe allegations of child abuse or domestic violence and that the disclosure of the information could be harmful to the custodial parent or the child of the parent, the *office* [cabinet] shall attempt to locate a noncustodial parent of a child described in *Section 14 of this Act* [KRS 205.725], and establish or set an amount of modification, and enforce the child support obligation.
- (2) Upon the request of a putative father and for the purpose of establishing paternity only, the *Office of the Attorney General* [cabinet] shall attempt to locate a custodial parent of a child described in *Section 9 of this Act* [KRS 205.712] if the *office* [cabinet] finds the action to be in the best interest of the child.
- (3) If paternity is established for a child described in *Section 14 of this Act* [KRS 205.725] as a result of the location of the custodial parent, the *Office of the Attorney General* [cabinet] shall establish a child support obligation or a modification for a child support obligation and shall enforce the child support obligation if the *office* [cabinet] finds the enforcement of the order to be in the best interest of the child.
- (4) The *Office of the Attorney General* [cabinet] shall serve as a registry for the receipt of information which directly relates to the identity or location of absent parents, and, upon request of a putative father, the location of a custodial parent, in order to establish paternity, to answer interstate inquiries concerning deserting parents or custodial parents, to coordinate and supervise any activity on a state level in search of an absent parent or custodial parent, to develop guidelines for coordinating activities of any governmental agency in providing information necessary for location of absent parents or custodial parents, to obtain information on the location of parents to enforce state and federal laws against parental kidnapping and to make or to enforce a child custody or visitation order, and is to process all requests received from an initiating county or an initiating state which has adopted the Uniform Reciprocal Enforcement of Support Act or the Uniform Interstate Family Support Act.
- (5) In order to carry out responsibilities imposed under this chapter, the *Office of the Attorney General* [cabinet] may request information and assistance from any governmental agency. All state, county, and city agencies, officers, and employees shall cooperate with the *Office of the Attorney General* [cabinet] in determining the location of parents who have abandoned or deserted children and shall cooperate with the *office* [cabinet] in determining the location of custodial parents for the purpose of establishing paternity with all pertinent information relative to the location, income and assets, property, and debt of the parents, notwithstanding any provision of state law making the information confidential.
- (6) The information which is obtained by the *Office of the Attorney General* [cabinet] shall only be available to such governmental agency or political subdivision of any state for purposes of locating an absent parent to enforce the parent's obligation of support and for the purposes of location of custodial parents to establish paternity of putative fathers.

➔Section 16. KRS 205.732 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

The *Office of the Attorney General* [cabinet] shall, to the extent federal funding is available, establish a statewide program to help low-income, noncustodial parents find and keep employment. The goal of the program shall be to reduce welfare payments by helping participants become financially responsible for their children. The *office* [cabinet] shall involve local social service providers and state and local government agencies, and may provide incentives to employers who hire program participants. The program shall also encourage noncustodial parents to be actively involved in their children's lives. Noncustodial parents may be required to enroll in the program by court order.

➔Section 17. KRS 205.735 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

All business concerns doing business in this state, to the extent that they have employees working within this state, or maintain personnel files within this state, or are incorporated under the laws of this state, shall provide the *Office of the Attorney General* [cabinet] with the following information upon certification by the secretary that the information is for the purpose of locating a parent, and the establishment, modification, and enforcement of a child support and

medical support order, and that the information obtained will be treated as confidential information by this ~~the~~ agency or cabinet of any other state which administers the Child Support Enforcement Program pursuant to Part D of Title IV of the Social Security Act for the other state: full name, Social Security account number, date of birth, home address, wages, and number of dependents listed for tax purposes.

➔Section 18. KRS 205.745 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) A child support lien or levy in favor of the **Office of the Attorney General**~~the cabinet~~ shall be enforceable against all real and personal property of the obligor if he has failed to make child support payment in an amount equal to support payable for one (1) month and the child support has been assigned to the **office**~~the cabinet~~. In accordance with subsection (4) of this section, the lien or levy shall have first priority over any other lien assigned by any other agency, association, or corporation.
- (2) The **Office of the Attorney General**~~the cabinet~~ shall file a notice of lien or levy with the county clerk of any county or counties in which the obligor has interest in property and the notice shall be recorded in the same manner as notices of lis pendens. The recordation shall constitute notice of both the original amount of child support due and all subsequent amounts due by the same obligor. Upon request, an authorized agent of the **Office of the Attorney General**~~the cabinet~~ shall disclose the specific amount of liability to any interested party legally entitled to the information. The notice, when so filed, shall be conclusive to all persons of the lien or levy on the property having legal situs in that county. The lien or levy shall commence as to property of the obligor located in the Commonwealth at the time the notice is filed and shall continue until the original amount of child support due and any subsequent amounts, including interest, penalties, or fees, are fully paid. The lien or levy shall attach to all interest in real and personal property in the Commonwealth, then owned or subsequently acquired by the obligor. The clerk shall be entitled to a fee pursuant to KRS Chapter 64.
- (3) The **Office of the Attorney General**~~the cabinet~~ may force the sale of the property of the parent subject to the lien or levy for the payment of assigned child support, and distribute the proceeds in accordance with 42 U.S.C. ~~sec.~~~~secs.~~ 651 et seq.
- (4) The **Office of the Attorney General's**~~the cabinet's~~ lien or levy shall be superior to any mortgage or encumbrance created after the notice of lien or levy is recorded. The **office**~~the cabinet~~ shall give full faith and credit to child support liens or levies created in other states without requirement of judicial notice or proceedings prior to enforcement, but the liens or levies shall subordinate to any child support lien or levy of the **office**~~the cabinet~~ that relates to the same obligor and property.
- (5) The **Office of the Attorney General**~~the cabinet~~ shall not enforce the lien by foreclosure action on a principal residence of an obligor if to do so would deprive a minor child of the obligor of a homestead, unless the failure to enforce the lien by foreclosure would result in the loss of the home of the minor child of the custodial parent.
- (6) In the event another lienholder initiates a foreclosure action against the property of the obligor, the **Office of the Attorney General**~~the cabinet~~ may protect its interest in the property by filing an answer counterclaim and cross-claim and participate in the proceeds of any sale of the property as its interests may appear.
- (7) The **Office of the Attorney General**~~the cabinet~~ shall notify the obligor of the filing of its claim of lien or levy and the opportunity to contest and appeal the action in accordance with the requirements of KRS Chapter 13B.
- (8) Liens or levies resulting from actions provided by this section shall be inapplicable to an account maintained at a financial institution that is or may be subject to the data match system established by **Section 31 of this Act**~~KRS 205.774~~, and is subordinate to any prior lien, levy, or security interest perfected by a financial institution or other legitimate lien or levy holder.
- (9) The **Office of the Attorney General**~~the cabinet~~ may, after application to and approval of the Circuit Court, enforce the lien by the immobilization with vehicle boots of a vehicle registered in the obligor's name. The **office**~~the cabinet~~ shall establish procedures for vehicle booting by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A. The procedures shall require that the following conditions are verified before a vehicle is immobilized with a vehicle boot:
 - (a) There is an arrearage that equals or exceeds six (6) months without payment;
 - (b) The obligor has failed, after receiving appropriate notice, to comply with subpoenas or warrants relating to child support proceedings;
 - (c) A lien has been filed in the county where the vehicle is kept;

- (d) The Department of Vehicle Regulation shows that the vehicle identification number for the vehicle to be booted is registered in the obligor's name;
- (e) The vehicle to be booted is solely owned by the obligor, co-owned by the obligor and current spouse, or owned by a business in which the obligor is the sole proprietor;
- (f) A notice of intent has been sent to the obligor, unless there is reason to believe that the obligor will leave town or hide the vehicle;
- (g) The obligor does not contact the cabinet within ten (10) days of notice to negotiate a settlement; and
- (h) A target date is set for booting.

The administrative regulations shall also require that the cabinet send a cancellation notice to the obligor and the sheriff if a decision is made to terminate the booting of a vehicle. Once a vehicle has been booted, the **Office of the Attorney General**~~[cabinet]~~ shall attempt to reach a payment agreement with the obligor including terms for the release of the vehicle. If an agreement is not reached with the obligor, the **office**~~[cabinet]~~ may proceed with the sale of the vehicle. If the **office**~~[cabinet]~~ sells a vehicle, the **office**~~[cabinet]~~ shall notify the Department of Vehicle Regulation to issue clear title to the new owner of the vehicle.

➔Section 19. KRS 205.750 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) Child support payments made pursuant to a court order shall be made through the state agency or an agency designated by the state agency to receive payments and paid to the **Office of the Attorney General**~~[cabinet]~~ upon notice by the **office**~~[cabinet]~~ to the court and the obligor that the child is a recipient of services pursuant to Title IV-D of the Social Security Act.
- (2) Payment of support payments by the obligor directly to a child who is receiving public assistance after the obligor has been notified pursuant to subsection (1) of this section does not abate the obligor's support obligation to the **Office of the Attorney General**~~[cabinet]~~.

➔Section 20. KRS 205.752 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

If any check tendered to the **Office of the Attorney General**~~[cabinet]~~ is not paid when presented to the drawee bank for payment, there shall be paid as a penalty by the payor who tendered the check, or the payor for whom the check was tendered, upon notice and demand of the **office**~~[cabinet]~~, an amount equal to ten percent (10%) of the check. The penalty under this section shall not be less than ten dollars (\$10) or more than twenty-five dollars (\$25). If the payor who tendered the check shows to the **Office of the Attorney General's**~~[cabinet's]~~ satisfaction that the failure to honor payment of the check resulted from error by parties other than the payor, the **office**~~[cabinet]~~ shall waive the penalty.

➔Section 21. KRS 205.755 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) Any payments of support made on behalf of a needy dependent child who is receiving public assistance shall be deposited by the **Office of the Attorney General**~~[cabinet]~~ in a manner prescribed by the **Attorney General**~~[secretary]~~ which is consistent with state and federal law and regulations. Distribution of any payments so made shall be made in a manner prescribed by the **Attorney General**~~[secretary]~~ which is consistent with state and federal law and regulations.
- (2) The **Office of the Attorney General**~~[cabinet]~~ may establish a system to receive and process all child support payments using automated payment options including, but not limited to, telephone and personal computer payment methods.

➔Section 22. KRS 205.765 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

The **Office of the Attorney General**~~[cabinet]~~ may appear in any judicial proceeding on behalf of the dependent child in order to secure support for the child from his parent or parents.

➔Section 23. KRS 205.766 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

For purposes of **Sections 8 to 46 of this Act**~~[KRS 205.710 to 205.800]~~, KRS Chapter 403, and KRS Chapter 407, the Circuit Court and the District Court shall have concurrent jurisdiction to establish, modify, and enforce obligations of child support in cases where the determination of paternity is not an issue, except that the jurisdiction of the District

Court in cases not involving the determination of paternity shall be limited to those cases where there is no Circuit Court order of this state previously setting child support.

➔Section 24. KRS 205.767 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) The **Office of the Attorney General**~~[cabinet]~~ shall require a parent in appropriate cases to give security, post bond, or give some other guarantee to secure payment of overdue support.
- (2) The **Office of the Attorney General**~~[cabinet]~~ shall provide advance notice to the obligor regarding the delinquency of the support payment and the requirement of posting security, bond or guarantee. The obligor shall be notified of his rights and methods available to contest the impending action in compliance with due process of law and administrative regulations.

➔Section 25. KRS 205.768 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) The **Office of the Attorney General**~~[cabinet]~~ shall periodically make information available to consumer reporting agencies regarding the amount of overdue support owed by a parent. Amounts may be reported by the **office**~~[cabinet]~~ to the certified consumer reporting agency.
- (2) The **Office of the Attorney General**~~[cabinet]~~ shall provide advance notice to the obligor concerning the proposed release of the information to the certified consumer reporting agency and inform the obligor of the methods available to contest the accuracy of the information in compliance with due process of law.
- (3) The **Office of the Attorney General**~~[cabinet]~~ may charge the certified consumer reporting agency a fee not to exceed the actual cost of providing the information.

➔Section 26. KRS 205.7685 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) The **Office of the Attorney General**~~[cabinet]~~ shall request information from a certified consumer reporting agency only when a full credit report is needed for the purpose of establishing a parent's capacity to make child support payments, determining the appropriate levels of child support payments, or enforcing a child support order, award, agreement, or judgment.
- (2) The report will be kept confidential and be used solely for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of the payments.
- (3) The report will not be used in connection with any other civil, administrative, or criminal proceeding or for any other purpose.

➔Section 27. KRS 205.769 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) In cases deemed appropriate pursuant to established guidelines, the **Office of the Attorney General**~~[cabinet]~~ shall refer for federal income tax refund offset and state income tax refund offset verified amounts which are owed for overdue child support and maintenance amounts that are included in the same support order as child support. The **office**~~[cabinet]~~ shall refer for federal income tax refund offset and state income tax refund offset verified amounts which are owed for medical support, when the medical support arrearage accrued is based on a medical support order for a specified dollar amount.
- (2) In nonpublic assistance cases, the custodial parent shall be notified in advance if any offset amount will be first used to satisfy any unreimbursed public assistance payments which have been provided to the family.
- (3) Written notice in advance shall be provided the obligor of the referral for state income tax refund offset, together with the opportunity to contest the referral pursuant to procedures which are in compliance with the state's procedural due process requirements.
- (4) If the offset amount is found to be in error or to exceed the amount of overdue support, the **office**~~[cabinet]~~ shall promptly refund the excess amount pursuant to established procedures.
- (5) The **office**~~[cabinet]~~ may charge a reasonable fee to cover the cost of collecting overdue support using the state tax refund offset.
- (6) The Department of Revenue shall notify the **Office of the Attorney General**~~[cabinet]~~ of the parent's home address and Social Security number or numbers. The **office**~~[cabinet]~~ shall provide this information to any other state involved in enforcing the support order.

- (7) The **Office of the Attorney General**~~[cabinet]~~ has the unfettered right to intercept federal income tax refunds and state income tax refunds, pursuant to 45 C.F.R. 303.72 and KRS 131.560 to 131.595, to satisfy all child support, maintenance, and medical support arrearages due the **office**~~[cabinet]~~ or its assignee.

➔Section 28. KRS 205.7695 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

The **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ and the Department of Revenue shall work together to develop a system of information sharing for the effective and efficient collection of child support payments. Any requirement included in KRS Chapter 15, 131, 205, 403, or 405 or any other law for either the **office**~~[cabinet]~~ or the department for the confidentiality of individual personal and financial records shall not be violated in the process of this coordination.

➔Section 29. KRS 205.770 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) If a child is receiving services under Part D of Title IV of the Social Security Act and the **Office of the Attorney General**~~[cabinet]~~ has taken action under **Sections 8 to 46 of this Act or KRS**~~[the provisions of KRS 205.715 to 205.800,]~~ 403.215, 405.405 to 405.530 and 530.050 to obtain support on behalf of the child, matters concerning custody of the child and visitation rights of the parents shall not be used by either parent as a reason not to pay child support to the **Office of the Attorney General**~~[cabinet]~~.
- (2) Upon a determination by the **Office of the Attorney General**~~[cabinet]~~ that such would be in the best interest of the child, the **Office of the Attorney General**~~[cabinet]~~ may petition a Circuit Court of proper jurisdiction in the name of the child to make a determination of child custody and visitation rights of a parent.

➔Section 30. KRS 205.772 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) Financial institutions doing business in the Commonwealth shall enter into cooperative agreements with the **Office of the Attorney General**~~[cabinet]~~ or its designee to operate a data match system. Pursuant to the agreements, the financial institution shall be required to provide identifying information each calendar quarter for each obligated parent who maintains an account at the institution and who owes an arrearage, and who shall be identified by the **Office of the Attorney General**~~[cabinet]~~.
- (2) The cooperative agreement shall include provisions for financial institutions to encumber or surrender assets held by the institutions on behalf of any obligated parent who is subject to a child support lien pursuant to **Section 33 of this Act**~~[KRS 205.778]~~.
- (3) The financial institution shall be paid a fee for conducting data matches from the obligor's account, not to exceed the actual cost.
- (4) No liability shall arise for the Commonwealth or the financial institution under this section with respect to any disclosure of financial records for the establishment, modification, or enforcement of a child support obligation of the individual.
- (5) The financial institution shall not be liable for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the **Office of the Attorney General**~~[cabinet]~~, for any other action taken in good faith to comply with the requirement of this section.
- (6) "Financial institution" means:
- (a) A depository institution and an institution-affiliated party as defined by 12 U.S.C. sec. 1813(c) and (u);
 - (b) Any federal or state credit union, including an institution-affiliated party of that credit union, as defined by 12 U.S.C. sec. 1752 and 12 U.S.C. sec. 1786(r);
 - (c) Any benefit association, insurance company, safe deposit company, money market mutual fund, brokerage firm, trust company, or similar entity authorized to do business in the Commonwealth.
- (7) The **Office of the Attorney General**~~[cabinet]~~ may promulgate administrative regulations to implement the requirements of this section.

➔Section 31. KRS 205.774 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) The **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ shall ~~use~~~~design, develop, implement, and operate a~~ the wage reporting and financial institution match system **formerly designed,**

developed, implemented, and operated by the Cabinet for Health and Family Services for the purpose of identifying the financial assets of individuals as identified by cabinet agencies, for the purpose of administering the child support enforcement program of the Commonwealth. The *office*~~[Cabinet for Health and Family Services]~~ may promulgate administrative regulations to implement this section.

- (2) Each financial institution in the Commonwealth shall enter into an agreement with the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~ to develop and operate a data match system to facilitate identification of financial assets of individuals identified by cabinet agencies for the purpose of administering the child support enforcement programs of the Commonwealth.

➔Section 32. KRS 205.776 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) A financial institution furnishing a report or providing asset information of an individual owing past-due support to the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~ under either subsection (1) or subsection (2) of *Section 31 of this Act*~~[KRS 205.774]~~ shall not disclose to a depositor or an account holder that the name of that person has been received from or furnished to the *office*~~[Cabinet for Health and Family Services]~~. An institution may disclose to its depositors or account holder that under the financial institution match system the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~ has the authority to request certain identifying information on certain depositors or account holders.
- (2) If a financial institution willfully violates the provisions of this section by releasing asset information of an individual owing child support to the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~, the institution shall pay to the *office*~~[Cabinet for Health and Family Services]~~ the lesser of one thousand dollars (\$1,000) or the amount on deposit or in the account of the person to whom the disclosure was made.
- (3) A financial institution shall incur no obligation or liability to a depositor or account holder or any other person arising from the furnishing of a report or information to the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~ under *Section 31 of this Act*~~[KRS 205.774]~~, or from the failure to disclose to a depositor or account holder that the name of the person was included in a list furnished by the financial institution to the *office*~~[Cabinet for Health and Family Services]~~, or in a report furnished by the financial institution to the *office*~~[Cabinet for Health and Family Services]~~.
- (4) Regardless of whether the action was specifically authorized or described in *Sections 8 to 46 of this Act*~~[KRS 205.715 to 205.800]~~ or an agreement, a financial institution shall not be liable for providing or disclosing of any information; for encumbering, holding, refusing to release, surrendering, or transferring any account balance or asset; or any other action taken by a financial institution pursuant to *Sections 8 to 46 of this Act*~~[KRS 205.715 to 205.800]~~ or agreement as required by *Section 31 of this Act*~~[KRS 205.774]~~.
- (5) A financial institution shall not give notice to an account holder or customer of the financial institution that the financial institution has provided information or taken any action pursuant to *Sections 8 to 46 of this Act*~~[KRS 205.715 to 205.800]~~ or the agreement and shall not be liable for failure to provide that notice; provided however, that a financial institution may disclose to its depositors or account holders that, under the data match system, the *Office of the Attorney General*~~[cabinet]~~ has the authority to request certain identifying information on certain depositors or account holders. The *office*~~[cabinet]~~ shall notify, not less than annually, affected depositors or account holders who have not otherwise received notification.
- (6) A financial institution may charge an account levied on by the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~ a fee of not more than twenty dollars (\$20) which may be deducted from the account prior to remitting any funds to the *office*~~[Cabinet for Health and Family Services]~~.

➔Section 33. KRS 205.778 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) When the *Office of the Attorney General*~~[cabinet]~~ determines that the name, record address, and either Social Security number or taxpayer identification number of an account with a financial institution matches the name, record address, and either the Social Security number or taxpayer identification number of a parent who owes past-due support in an amount equal to or greater than one (1) month's obligation, a lien or levy shall, subject to the provision of subsection (3) of this section, arise against the assets in the account at the time of receipt of the notice by the financial institution at which the account is maintained. The *office*~~[cabinet]~~ shall provide a notice of the match, the lien or levy arising therefrom, and the action to be taken to surrender or encumber the account with the lien or levy for child support payment to the individual identified and the financial institution holding the account. The financial institution shall have no obligation to hold, encumber, or surrender assets in any account based on a match until receipt of the notice from the *office*~~[cabinet]~~.

- (2) The **Office of the Attorney General**~~[cabinet]~~ shall provide notice to the individual subject to a child support lien or levy on assets in an account held by a financial institution within two (2) business days of the date that notice is sent to the financial institution.
- (3) A financial institution ordered to surrender or encumber an account shall be entitled to collect its normally scheduled account activity fees to maintain the account during the period of time the account is seized or encumbered.
- (4) Any levy issued on an identified account by the **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ for past-due child support shall have first priority over any other lien or levy issued by the Department of Revenue or any other agency, corporation, or association.

➔Section 34. KRS 205.7785 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) An interstate lien may be created and a notice of interstate lien may be filed on all of an obligor's real and personal property that is located in another state to enforce a child support obligation which has been judicially or administratively established in the Commonwealth. The lien shall be filed in the appropriate offices of the state or county where the property of the obligor is located. All aspects of the lien, including its priority and enforcement, are governed by the law of the state where the property is located and shall remain until released by the authorized agent of the party which filed the lien, or in accordance with the laws of the state of filing.
- (2) A lien to enforce a child support obligation which is created in another state shall be enforceable against all real and personal property of the obligor located in this state upon the filing of a notice of interstate lien with the county clerk of any county or counties in which the obligor has interest in property, and the notice shall be recorded in the same manner as notices of lis pendens. The recordation shall constitute notice of both the original amount of child support due and all subsequent amounts due by the same obligor. Upon request, an authorized agent of the party which filed the notice of interstate lien shall disclose the specific amount of liability to any interested party legally entitled to that information. The notice, when so filed, shall be conclusive notice to all persons of the lien on the property having legal situs in that county. The lien shall commence as to property of the obligor located in the Commonwealth at the time the notice is filed and shall continue until the original amount of child support due and any subsequent amounts, including interest, penalties, or fees, are fully paid. The lien shall attach to all interest in the real and personal property in the Commonwealth, then owned or subsequently acquired by the obligor. The clerk shall be entitled to a fee pursuant to KRS 64.012 for filing the lien and the same fee for releasing the lien.
- (3) A child support lien created in another state shall be on a parity with state, county, and municipal ad valorem tax liens, and superior to the lien of any mortgage or other encumbrance created after the notice of interstate lien is recorded; however, it shall be subordinate to any child support lien which has been filed by the **Office of the Attorney General**~~[cabinet]~~ as to the same obligor and property.
- (4) The authority by which the child support lien is created in another state and filed in this state shall be certified on the notice of interstate lien by a person who is authorized to certify on behalf of the party that is filing the notice of interstate lien.
- (5) The **Office of the Attorney General**~~[secretary of the cabinet]~~ may promulgate administrative regulations under the provisions of KRS Chapter 13A to implement this section.

➔Section 35. KRS 205.780 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

At any time prior to a child's twenty-first birthday, the **Office of the Attorney General**~~[cabinet]~~ may institute a legal action against an obligor for the reimbursement of money paid by the **office**~~[cabinet]~~ for the benefit of the child through the public assistance programs.

➔Section 36. KRS 205.782 is repealed and reenacted as a new section of KRS Chapter 15 to read as follows:

In a county containing a city of the first class, the provisions of KRS 454.140 notwithstanding, including those provisions related to priority of other officers, all forms of legal process may be served in any child support action by a constable of the county upon direction by the initiating party. A constable shall not be automatically deemed an interested party in litigation merely by virtue of serving process on behalf of the Commonwealth.

➔Section 37. KRS 205.785 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) It shall be unlawful for anyone to knowingly refuse to give the *Attorney General or his or her designee*~~[secretary]~~ the name of a parent of a child for whom services are being provided under Part D of Title IV of the Social Security Act or information which will assist the *Attorney General*~~[secretary]~~ in locating a parent of a child.
- (2) Any information gathered pursuant to subsection (1) of this section shall not be used in criminal prosecutions against the informant.
- (3) It shall be unlawful for anyone to knowingly give the *Attorney General or his or her designee*~~[secretary]~~ the incorrect name of a parent of a child or to knowingly give the *Attorney General*~~[secretary]~~ incorrect information on the parent's whereabouts when it is done for the purpose of concealing the identity of the real parent of the child or when it is done with the intent of concealing the location of the parent.
- (4) Failure to provide information as required in subsection (1) of this section or providing incorrect information as prohibited in subsection (3) of this section shall constitute a Class A misdemeanor.

➔Section 38. KRS 205.790 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

The procedures, actions and remedies provided for in *Sections 8 to 46 of this Act*~~[KRS 205.710 to 205.800]~~, 403.215, 405.405 to 405.530, and 530.050 shall be in addition to and not in substitution of other proceedings provided by law.

➔Section 39. KRS 205.792 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

In addition to the procedures for judicial determination, and enforcement of support obligations described in *Sections 8 to 46 of this Act*~~[KRS 205.710 through 205.800]~~, the *Office of the Attorney General*~~[cabinet]~~ may employ administrative process, as described in KRS 405.405 to 405.520, to determine and enforce support obligations when paternity is not in question.

➔Section 40. KRS 205.793 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

- (1) The *Office of the Attorney General*~~[cabinet]~~ shall have authority to issue an administrative subpoena commanding information and records relating to the establishment, enforcement, and collection of child support.
- (2) All public and private entities including financial institutions shall comply with a subpoena issued under this section within a reasonable time period. Financial institutions may deduct twenty dollars (\$20) from the account on which the subpoenaed information has been issued.
- (3) The *Office of the Attorney General*~~[cabinet]~~ may enforce compliance by filing an action in the Franklin Circuit Court.
- (4) The subpoena shall be issued by a person designated by the *Attorney General*~~[secretary]~~.

➔Section 41. KRS 205.795 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

The *Attorney General*~~[secretary]~~ may adopt regulations necessary to prevent conflict with federal laws and regulations or the loss of federal funds. The *Attorney General*~~[secretary]~~ may adopt regulations to establish procedures necessary to guarantee due process of law. These regulations shall be consistent with the purpose and intent of *Sections 8 to 46 of this Act*~~[KRS 205.710 to 205.800]~~.

➔Section 42. KRS 205.796 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

No employee or agent of the Commonwealth shall divulge any information referred to in *Sections 8 to 46 of this Act*~~[KRS 205.715 to 205.800]~~, except in the manner prescribed in *Sections 8 to 46 of this Act*~~[KRS 205.715 to 205.800]~~ to any public or private agency or individual; provided, however, that information may be disclosed and shared by and between any employee of the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~ and any designee, local administering agency, or any local housing authority for the purpose of verifying eligibility and detecting and preventing fraud, error, and abuse in the programs included in the reporting system. Unauthorized disclosure of any information shall be a violation that is punishable by a fine of one hundred dollars (\$100) per offense; except that the unauthorized release of the information about any individual shall be a separate offense from information released about any other individual.

➔Section 43. KRS 205.7965 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

Nothing in *Sections 8 to 46 of this Act* [KRS 205.715 to 205.800] shall be construed to prevent the release by the *Office of the Attorney General* [Cabinet for Health and Family Services] of wage and financial institution information data to the United States Social Security Administration or the agencies of other states who administer federally funded welfare and unemployment compensation programs.

➔Section 44. KRS 205.798 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

The *Office of the Attorney General* [cabinet] may coordinate with other state agencies and cabinets to develop a system for the effective and efficient collection of child support payments.

➔Section 45. KRS 205.800 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the *Office of the Attorney General* [cabinet] shall refer cases to the appropriate official for such. The *Office of the Attorney General* [cabinet] may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the *office* [cabinet] in administering the program of child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations and any other matters of common concern to such courts or officials and the *office* [cabinet].

➔Section 46. KRS 205.802 is repealed, reenacted as a new section of KRS Chapter 15, and amended to read as follows:

All forms, child support orders, wage withholding orders, or orders amending an existing child support order, entered in any case in Circuit, District, or Family Court that require entry into the state case registry pursuant to *subsection (4) of Section 9 of this Act* [KRS 205.712(4)] shall be entered on forms adopted by the Administrative Office of the Courts in coordination with the *Office of the Attorney General* [Cabinet for Health and Family Services]. If the provisions of a child support order are contained in an order that is narrative in nature, the adopted forms shall be used in addition to the narrative order.

➔Section 47. 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 *Office of the Attorney General* [Cabinet for Health and Family Services];
- (3) "Office" means the Kentucky Office of Unemployment Insurance;
- (4) "Secretary" means the secretary of the Education and 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 48. KRS 405.411 is amended to read as follows:

- (1) The *Office of the Attorney General's* [Cabinet for Health and Family Services] designee under *subsection (7) of Section 9 of this Act* [KRS 205.712(7)] for the administration of child support may compile a list of the names of persons under its jurisdiction who have a child support arrearage that equals or exceeds six (6) months without payment, or fail, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16). The *Office of the Attorney General* [cabinet] may furnish this list to the newspaper of general circulation in that county for publication.

- (2) The Department for Income Support, Child Support Enforcement, in the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~ shall determine uniform standards for publication. The *Office of the Attorney General*~~[cabinet]~~ is authorized to promulgate the necessary administrative regulations under KRS Chapter 13A to implement the provisions of this section.
- (3) For purposes of this section, "newspaper of general circulation" means a publication bearing a title or name, regularly issued at least as frequently as once a week for a definite price, having a second-class mailing privilege, being not less than four (4) pages, published continuously during the immediately preceding one (1) year period, which is published for the dissemination of news of general interest, and is circulated generally in the political subdivision in which it is published and in which notice is to be given. In any county where a publication fully complying with this definition does not exist, the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~ may publish this list in the publication utilized by the Circuit Court Clerk of the county for publication of other legal notices in the county. A newspaper that is not engaged in the distribution of news of general interest to the public, but that is primarily engaged in the distribution of news of interest to a particular group of citizens, is not a newspaper of general circulation.

➔Section 49. KRS 405.430 is amended to read as follows:

- (1) When a parent presents himself to the *Office of the Attorney General*~~[cabinet]~~ for the voluntary establishment of paternity and clear evidence of parentage is not present, the *office*~~[cabinet]~~ shall pay when administratively ordered the cost of genetic testing to establish paternity, subject to recoupment from the alleged father when paternity is established.
- (2) The *Office of the Attorney General*~~[cabinet]~~ shall obtain additional testing in any case if an original test is contested, upon request and advance payment by the contestant.
- (3) In a contested paternity case, the child, the mother, and the putative father shall submit to genetic testing upon a request of any of the parties, unless the person or guardian of the person who is requested to submit to genetic testing shows good cause, taking into account the best interests of the child, why the genetic tests cannot be performed. The request shall be supported by a sworn statement of the party, requesting that the test be performed, which shall include the information required by 42 U.S.C. sec. 666(a)(5)(B)(i) or (ii).
- (4) When a parent who fails to support a child is not obligated to provide child support by court order, the *Office of the Attorney General*~~[cabinet]~~ may administratively establish a child support obligation based upon a voluntary acknowledgment of paternity as set forth in KRS Chapter 406, the parent's minimum monthly child support obligation and proportionate share of child care costs incurred due to employment or job search of either parent, or incurred while receiving elementary or secondary education, or higher education or vocational training which will lead to employment. The monthly child support obligation shall be determined pursuant to the Kentucky child support guidelines set forth in KRS 403.212 or 403.2121. The actual cost of child care shall be reasonable and shall be allocated between the parents in the same proportion as each parent's gross income, as determined under the guidelines, bears to the total family gross income.
- (5) The *Office of the Attorney General*~~[cabinet]~~ shall recognize a voluntary acknowledgment of paternity as a basis for seeking a support order, irrespective of the alleged father's willingness to consent to a support order.
- (6) When in the best interest of the child, the *Office of the Attorney General*~~[cabinet]~~ may review and adjust a parent's child support obligation or child care obligation as established by the *office*~~[cabinet]~~, upon a request of the *office*~~[cabinet]~~ when an assignment has been made, or upon either parent's petition if the amount of the child support awarded under the order differs from the amount that would be awarded in accordance with KRS 403.212 or 403.2121. The *Office of the Attorney General*~~[cabinet]~~ shall notify parents at least once every three (3) years of the right to a review.
- (7) In establishing or modifying a parent's monthly child support obligation, the *Office of the Attorney General*~~[cabinet]~~ may use automated methods to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the adjustment to eligible orders in accordance with KRS 403.212 or 403.2121. The *office*~~[cabinet]~~ shall utilize information, including financial records, about the parent and child which it has good reason to believe is reliable and may require the parents to provide income verification.
- (8) In cases in which past-due support is owed for a child receiving public assistance under Title IV-A of the Federal Social Security Act, the *Office of the Attorney General*~~[cabinet]~~ shall issue an administrative order, or seek a judicial order, requiring the obligated parent to participate in work activities, or educational or vocational training activities for at least twenty (20) hours per week, unless the parent is incapacitated as defined by 42 U.S.C. sec. 607.

- (9) The **Office of the Attorney General**~~[cabinet]~~ may disclose financial records only for the purpose of establishing, modifying, or enforcing a child support obligation of an individual. A financial institution shall not be liable to any individual for disclosing any financial record of the individual to the **office**~~[cabinet]~~ attempting to establish, modify, or enforce a child support obligation.
- (10) The **Office of the Attorney General**~~[cabinet]~~ may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify, or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. ~~sec.~~~~[secs.]~~ 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.
- (11) In any case where a person or entity fails to respond to a subpoena within the specified time frame, the cabinet shall impose a penalty.
- (12) No person shall knowingly make, present, or cause to be made or presented to an employee or officer of the cabinet any false, fictitious, or fraudulent statement, representation, or entry in any application, report, document, or financial record used in determining child support or child care obligations.
- (13) If a person knowingly or by reason of negligence discloses a financial record of an individual, that individual may pursue civil action for damages in a federal District Court or appropriate state court. No liability shall arise with respect to any disclosure which results from a good faith, but erroneous, interpretation. In any civil action brought for reason of negligence of disclosure of financial records, upon finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to:
- The sum of the greater of one thousand dollars (\$1,000) for each act of unauthorized disclosure of financial records; or
 - The sum of the actual damages sustained by the plaintiff resulting from the unauthorized disclosure; plus
 - If willful disclosure or disclosure was a result of gross negligence, punitive damages, plus the costs, including attorney fees, of the action.
- (14) The **Office of the Attorney General**~~[cabinet]~~ shall issue an administrative order or seek a judicial order requiring a parent with a delinquent child support obligation, as defined by administrative regulation promulgated under KRS 15.055, to participate in the program described in **Section 16 of this Act**~~[KRS 205.732]~~ to help low-income, noncustodial parents find and keep employment unless the parent is incapacitated as defined by 42 U.S.C. sec. 607.

➔Section 50. KRS 405.435 is amended to read as follows:

- An employer or labor organization in the Commonwealth of Kentucky shall provide information to the **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ when that employer or labor organization hires an employee who resides or works in the Commonwealth, or rehires or permits the return to work of an employee who has been laid-off, furloughed, separated, granted a leave without pay, or terminated from employment, unless the reporting could endanger the safety of the employee or compromise an ongoing investigation or intelligence mission as determined by the **Attorney General**~~[secretary of health and family services]~~.
- The employer shall provide the information within twenty (20) days of the hiring or return to work of the employee. The information shall include:
 - The employee's name, address, and Social Security number;
 - The employer's name, address, and, if the employer has been assigned one, federal and state employer identification numbers; and
 - The date services for remuneration were first performed by the employee.
- An employer shall report the required information by submitting a copy of the employee's W-4 form or, at the option of the employer, an equivalent form provided by the **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ as prescribed by administrative regulation promulgated by the **office**~~[Cabinet for Health and Family Services]~~ in accordance with KRS Chapter 13A.
- The **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ shall enter all new hire information into the database of the **office**~~[cabinet]~~ within five (5) business days.

- (5) The **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ may promulgate administrative regulations in accordance with KRS Chapter 13A if the **office**~~[Cabinet for Health and Family Services]~~ determines exceptions are needed to reduce unnecessary or burdensome reporting or are needed to facilitate cost-effective operation of the **office**~~[cabinet]~~ under this section.
- (6) The **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ shall use the information collected pursuant to this section for the location of noncustodial parents, establishment, modification, and enforcement of child support and any other matter related to paternity or child support.
- (7) If the employer fails to report as required by this section, the **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ shall give the employer written notice of the provisions of this section, including the penalty for failure to report.
- (8) If the employer has not filed a report within twenty (20) days from the date that the written notice is sent to him, the **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ shall send a second written notice.
- (9) If the employer fails to file a W-4 or equivalent form within twenty (20) days from the date that the second written notice is sent, or supplies a false or incomplete report, and the failure is a result of a conspiracy between the employee and the employer to prevent the proper information from being filed within twenty (20) days from the date that the second written notice is sent, the **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ shall send the employer by certified mail, return receipt request, notice of an administrative fine. The fine shall be two hundred fifty dollars (\$250) per calendar month per person for any violation occurring after the second notice has been given, and continuing until a W-4 or equivalent form is received by the **office**~~[Cabinet for Health and Family Services]~~. No fine shall be imposed for any period of less than one (1) full calendar month.
- (10) The employer shall have ten (10) days after receipt of the administrative fine notice to request a hearing before the **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ on whether the administrative fine was properly assessed. If a timely request for a hearing is received, the **office**~~[Cabinet for Health and Family Services]~~ shall schedule and conduct a hearing in accordance with administrative regulations promulgated by the **office**~~[cabinet]~~ in accordance with KRS Chapter 13A.

➔Section 51. KRS 405.450 is amended to read as follows:

- (1) A hearing officer appointed by the secretary shall conduct dispute hearings in the county of the child or parent's residence or any other location acceptable to the parent, which shall be scheduled within sixty (60) days of the parent's request for a hearing. The dispute hearing proceedings shall be conducted in accordance with KRS Chapter 13B.
- (2) The parent's obligation to pay minimum monthly support shall be stayed until his receipt of the final order.
- (3) The parent or the **Office of the Attorney General**~~[cabinet]~~ may file an appeal in the Circuit Court in the county of the parent's or the child's residence in accordance with KRS Chapter 13B.
- (4) The parent shall, during the pendency of his appeal from the final order, absent a showing of indigency or need exceeding the child's need, pay the minimum monthly support obligation to the **office**~~[cabinet]~~, which shall, if the parent's appeal is successful, return his money together with interest at the legal rate for judgments.
- (5) If the **Office of the Attorney General**~~[cabinet]~~ elects to conduct the modification review as specified in KRS 405.430 (6), either party may contest the adjustment to the obligation amount within thirty (30) days after the date of the notice of the adjustment by requesting a review under subsection (1) of this section and, if appropriate, a request for adjustment of the order as permitted by this chapter.

➔Section 52. KRS 405.460 is amended to read as follows:

- (1) When an arrearage has accrued that is equal to the amount of support payable for one (1) month on court-ordered or administratively-determined child support, which was set prior to July 15, 1988, the **Office of the Attorney General**~~[cabinet]~~ may use judicial or administrative remedies to enforce the support obligation without the necessity of any action by a hearing officer.
- (2) In cases where the obligor has not requested a dispute hearing, action to collect the debt may be taken twenty (20) days after the obligor's receipt of the notice of support obligation or his refusal to accept the notice.

➔Section 53. KRS 405.463 is amended to read as follows:

The Kentucky Lottery Corporation and the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~ shall develop a system to allow the Kentucky Lottery Corporation to receive a list of delinquent child support obligors from the *office*~~[Cabinet for Health and Family Services]~~ on a monthly basis. The Kentucky Lottery Corporation shall withhold delinquent amounts from prizes of winners that appear on the list. This system shall be timely and shall not create an unavoidable delay in the payment of a lottery prize.

➔Section 54. KRS 405.465 is amended to read as follows:

- (1) This section shall apply only to those child support, medical support, maintenance, and medical support insurance orders that are established, modified, or enforced by the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~ or those court orders obtained in administering Part D, Title IV of the Federal Social Security Act.
- (2) All child support orders and medical support insurance orders being established, modified, or enforced by the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~, or those orders obtained pursuant to the administration of Part D, Title IV of the Federal Social Security Act, shall provide for income withholding which shall begin immediately.
- (3) The court shall order either or both parents who are obligated to pay child support, medical support, or maintenance under this section to assign to the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~ that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the child support amount ordered by the court.
- (4) The order shall be binding upon the employer or any subsequent employer upon the service by certified mail of a copy of the order upon the employer and until further order of the court. The employer may deduct the sum of one dollar (\$1) for each payment made pursuant to the order.
- (5) The employer shall notify the *Office of the Attorney General*~~[cabinet]~~ when an employee, for whom a wage withholding is in effect, terminates employment and provide the terminated employee's last known address and the name and address of the terminated employee's new employer, if known.
- (6)
 - (a) An employer with twenty (20) or more employees shall notify in writing the *Office of the Attorney General*~~[cabinet]~~, or its designee administering the support order, of any lump-sum payment of any kind of one hundred fifty dollars (\$150) or more to be made to an employee under a wage withholding order. An employer with twenty (20) or more employees shall notify in writing the *Office of the Attorney General*~~[cabinet]~~ or its designee no later than forty-five (45) days before the lump-sum payment is to be made or, if the employee's right to the lump-sum payment is determined less than forty-five (45) days before it is to be made, the date on which that determination is made. After notification, the employer shall hold each lump-sum payment of one hundred fifty dollars (\$150) or more for thirty (30) days after the date on which it would otherwise be paid to the employee and, on order of the court, pay all or a specified amount of the lump-sum payment to the Department for Income Support, Child Support Enforcement. The employer may deduct the sum of one dollar (\$1) for each payment.
 - (b) As used in this subsection, "lump-sum payment of any kind" means a lump-sum payment of earnings as defined in KRS 427.005.
- (7) Any assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.
- (8) No assignment under this section by an employee shall constitute grounds for dismissal of the obligor, refusal to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

➔Section 55. KRS 405.467 is amended to read as follows:

- (1) All support orders issued by the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~, including those issued pursuant to Part D, Title IV of the Federal Social Security Act, shall provide for immediate withholding of earnings of the parent or parents obligated to pay child support and medical support as is necessary to pay the child support obligation, except where one (1) of the parties demonstrates, and the court or administrative order finds that there is good cause not to require immediate income withholding, or a written agreement is reached by both parties which provides for an alternative arrangement.
- (2) In any case in which a support order was issued in the state and in which a parent is required to pay court-ordered or administratively determined child support, medical support, maintenance, and medical support insurance, and wage withholding is not in effect, and an arrearage accrues that is equal to the amount of

support payment for one (1) month, upon request of the absent parent, request of the custodial parent, or upon administrative determination, the **Attorney General**~~[secretary]~~ shall issue an order for withholding of earnings of the parent as is necessary to comply with the order plus interest at the legal rate on the arrearage, if any, without the need for a judicial or administrative hearing.

- (3) If a court-ordered arrearage repayment amount does not exist and an arrearage accrues that is equal to the amount of support payable for one (1) month, an arrearage repayment amount may be determined administratively. The **Office of the Attorney General**~~[cabinet]~~ shall promulgate administrative regulations establishing the guidelines for arrearage payments.
- (4) In any case in which a parent is required either by court order or administrative order to provide medical insurance coverage for the child and the parent has failed to make application to obtain coverage for the child, the **Attorney General**~~[secretary]~~ shall issue an order for withholding of the employee's share, if any, of premiums for health coverage and to pay the share of premiums to the insurer, without the need for a judicial or administrative hearing.
- (5) The **Office of the Attorney General**~~[cabinet]~~ shall advise the obligated parent that a wage withholding has commenced by sending a copy of the order to withhold at the same time that the order is sent to the employer. The only basis for contesting the withholding shall be a mistake of fact or law. If the parent contests the withholding, the **Office of the Attorney General**~~[cabinet]~~ shall give the obligor an opportunity to present his or her case at an administrative hearing conducted in accordance with KRS Chapter 13B and decide if the withholding will continue.
- (6) The **Office of the Attorney General**~~[cabinet]~~ shall combine any administrative or judicial wage withholding order, or multiple administrative or judicial orders for child support and medical support into a single wage withholding order when payable through the **office**~~[cabinet]~~ to a single family or to multiple family units.
- (7) The **Office of the Attorney General**~~[cabinet]~~ shall serve the order to withhold earnings or notice of multiple wage withholding orders specifying wage withholding requirements on the employer of an obligor by certified mail, return receipt requested. The order shall state the amount to be withheld, or the requirement to enroll the child under the health insurance coverage, including amounts to be applied to arrearages, plus interest at the legal rate on the arrearage, if any, and the date the withholding is to begin. The total amount to be withheld, including current support and payment on arrearages plus interest, and medical insurance coverage may not exceed the limit permitted under the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b).
- (8) If there is more than one (1) notice for child support withholding against a single absent parent, the **Office of the Attorney General**~~[cabinet]~~ shall allocate amounts available for withholding, giving priority to current child support, up to the limits imposed under Section 303(b) of the Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b). The allocation by the **office**~~[cabinet]~~ shall not result in a withholding for one (1) of the support obligations not being implemented. Amounts resulting from wage withholding shall be allocated on a proportionate basis between multiple family units. Any custodial parent adversely affected by the provisions of this subsection shall have standing to challenge any proportionate allocations and, for good cause shown, a District Court, Circuit Court, or family court of competent jurisdiction may set aside the **Office of the Attorney General's**~~[cabinet's]~~ proportional allocations as to the custodial parent.
- (9) If the amounts to be withheld preclude collection of the total amount of combined child support and medical support due to the limits of the federal Consumer Credit Protection Act at 15 U.S.C. sec. 1673(b), the actual amount received shall be applied first to the current monthly child support obligation amount. Any payment exceeding the current monthly child support obligation shall then be applied by the **Office of the Attorney General**~~[cabinet]~~ to the administratively ordered or judicially ordered medical support obligation.
- (10) The employer shall forward to the **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ that portion of salary or wages of the parent due and to be due in the future as will be sufficient to pay the child support amount ordered.
- (11) The employer shall be held liable to the **Office of the Attorney General**~~[cabinet]~~ for any amount which the employer fails to withhold from earnings due an obligor following receipt of an order to withhold earnings.
- (12) Any order to withhold earnings under this section shall have priority as against any attachment, execution, or other assignment, notwithstanding any state statute or administrative regulation to the contrary.
- (13) No withholding under this section shall be grounds for discharging from employment, refusing to employ, or taking disciplinary action against any obligor subject to withholding required by this section.

- (14) The remedies provided for in this section shall also be available for applicable support orders issued in other states.
- (15) Interstate requests for withholding of earnings shall be processed by the *Office of the Attorney General*~~[cabinet]~~.

➔Section 56. KRS 405.480 is amended to read as follows:

- (1) An order to withhold and deliver shall be personally served or mailed by certified mail, return receipt requested, on the person in possession or control of the property and the obligor.
- (2) The order shall state the basis for and the amount of the support debt and that the obligor may offer a bond satisfactory to the *Office of the Attorney General*~~[cabinet]~~ to avoid losing possession of the property.

➔Section 57. KRS 405.490 is amended to read as follows:

- (1) Any person, including the obligor, who has been served with an order to withhold and deliver the obligor's property shall answer the order within twenty (20) days.
- (2) The person in possession of any obligor's property shall withhold it and deliver it to the *Office of the Attorney General*~~[cabinet]~~ in accordance with the *Attorney General's*~~[secretary's]~~ directions; or the obligor may offer a bond which is satisfactory to the *office*~~[cabinet]~~.
- (3) The person in possession of obligor's property shall have no liability or further responsibility after fulfilling the duties under this section.
- (4) The obligor may dispute the amount of delinquent support by requesting a dispute hearing with twenty (20) days.
- (5) If the obligor does not request a hearing, acknowledgment of the obligation is presumed and the *Attorney General*~~[secretary]~~ may apply the withheld property to the delinquent child support obligation.
- (6) If a hearing is requested, when property or a bond is released to the *Attorney General*~~[secretary]~~ pursuant to an order to withhold and deliver property, the *Attorney General*~~[secretary]~~ shall hold the property or bond, pending determination of the obligor's liability by a hearing officer, pursuant to KRS 405.450.
- (7) Upon a decision adverse to the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~ by a hearing officer, of the Circuit Court on appeal, the *office*~~[cabinet]~~ shall return the property together with interest at the legal rate for judgments.

➔Section 58. KRS 405.520 is amended to read as follows:

The *Office of the Attorney General*~~[cabinet]~~ may promulgate administrative regulations to implement *Sections 8 to 46 of this Act and KRS*~~[the provisions of KRS 205.715 to 205.800,]~~ 403.215, 405.405 to 405.520, 405.991(2), and 530.050. The *office*~~[cabinet]~~ may adopt regulations necessary to prevent conflict with federal laws and regulations or the loss of federal funds and to establish procedures necessary to guarantee due process of law.

➔Section 59. KRS 407.5102 is amended to read as follows:

The Circuit Court, District Court, family courts, and the *Office of the Attorney General*~~[Department for Income Support, Child Support Enforcement, within the Cabinet for Health and Family Services]~~ shall be the tribunals of this state. The *Office of the Attorney General*~~[Department for Income Support, Child Support Enforcement, within the Cabinet for Health and Family Services]~~ shall be the support enforcement agency of this state.

➔Section 60. KRS 407.5201 is amended to read as follows:

- (1) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:
- (a) The individual is personally served with summons, or notice within this state;
 - (b) The individual submits to the jurisdiction of this state by consent in a record, by entering a general appearance, or by filing a responsive pleading having the effect of waiving any contest to personal jurisdiction;
 - (c) The individual resided with the child in this state;
 - (d) The individual resided in this state and provided prenatal expenses or support for the child;

- (e) The child resides in this state as a result of the acts or directives of the individual;
 - (f) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;
 - (g) The individual asserted parentage of a child in the putative father registry maintained in this state by the **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~; or
 - (h) There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.
- (2) The bases of personal jurisdiction set forth in subsection (1) of this section or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of KRS 407.5611 are met, or, in the case of a foreign support order, unless the requirements of KRS 407.5615 are met.

➔Section 61. KRS 407.5308 is amended to read as follows:

- (1) If the **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ determines that a contracting official is neglecting or refusing to provide services to an individual, the **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ may order that official to perform his duties under KRS 407.5101 to 407.5902 or may provide those services directly to the individual.
- (2) The **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ may determine that a foreign country has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.

➔Section 62. KRS 407.5310 is amended to read as follows:

- (1) The **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ is the state information agency under KRS 407.5101 to 407.5902.
- (2) The state information agency shall:
 - (a) Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under KRS 407.5101 to 407.5902 and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;
 - (b) Maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;
 - (c) Forward to the appropriate tribunal in the county in this state in which the obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under KRS 407.5101 to 407.5902 received from another state or foreign country; and
 - (d) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and Social Security.

➔Section 63. KRS 407.5602 is amended to read as follows:

- (1) Except as otherwise provided in KRS 407.5706, a support order or income-withholding order of another state or a foreign support order may be registered in this state by sending the following to the **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~:
 - (a) A letter of transmittal to the tribunal requesting registration and enforcement;
 - (b) Two (2) copies, including one (1) certified copy, of the order to be registered, including any modification of the order;
 - (c) A sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;
 - (d) The name of the obligor and, if known;

1. The obligor's address and the obligor's Social Security number provided in accordance with KRS 403.135;
 2. The name and address of the obligor's employer and any other source of income of the obligor; and
 3. A description and the location of property of the obligor in this state not exempt from execution; and
- (e) Except as otherwise provided in KRS 407.5312, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.
- (2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as an order of a tribunal of another state or a foreign support order, together with one (1) copy of the documents and information, regardless of their form.
 - (3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading shall specify the grounds for the remedy sought.
 - (4) If two (2) or more orders are in effect, the person requesting registration shall:
 - (a) Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;
 - (b) Specify the order alleged to be the controlling order, if any; and
 - (c) Specify the amount of consolidated arrears, if any.
 - (5) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

➔Section 64. KRS 407.5703 is amended to read as follows:

Under *Section 9 of this Act* [KRS 205.712], the *Office of the Attorney General* [Department for Income Support, Child Support Enforcement, within the Cabinet for Health and Family Services] is recognized as the agency designated by the United States central authority to perform specific functions under the Convention.

➔Section 65. KRS 407.5704 is amended to read as follows:

- (1) In a support proceeding under this Article, *the Office of the Attorney General* [the Cabinet for Health and Family Services] shall:
 - (a) Transmit and receive applications; and
 - (b) Initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.
- (2) The following support proceedings are available to an obligee under the Convention:
 - (a) Recognition or recognition and enforcement of a foreign support order;
 - (b) Enforcement of a support order issued or recognized in this state;
 - (c) Establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;
 - (d) Establishment of a support order if recognition of a foreign support order is refused under KRS 407.5708(2)(b), (d), or (i);
 - (e) Modification of a support order of a tribunal of this state; and
 - (f) Modification of a support order of a tribunal of another state or a foreign country.
- (3) The following support proceedings are available under the Convention to an obligor against which there is an existing support order:
 - (a) Recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;
 - (b) Modification of a support order of a tribunal of this state; and

(c) Modification of a support order of a tribunal of another state or a foreign country.

(4) A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the Convention.

➔Section 66. KRS 407.5705 is amended to read as follows:

(1) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In the proceeding, the law of this state applies.

(2) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, KRS 407.5706, 407.5707, 407.5708, 407.5709, 407.5710, 407.5711, 407.5712, and 407.5713 apply.

(3) In a direct request for recognition and enforcement of a Convention support order or foreign support agreement:

(a) A security, bond, or deposit is not required to guarantee the payment of costs and expenses; and

(b) An obligee or obligor that in the issuing country has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this state under the same circumstances.

(4) A petitioner filing a direct request is not entitled to assistance from the *Office of the Attorney General* [~~Cabinet for Health and Family Services~~].

(5) This Article does not prevent the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

➔Section 67. KRS 407.5708 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a tribunal of this state shall recognize and enforce a registered Convention support order.

(2) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered Convention support order:

(a) Recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(b) The issuing tribunal lacked personal jurisdiction consistent with KRS 407.5201;

(c) The order is not enforceable in the issuing country;

(d) The order was obtained by fraud in connection with a matter of procedure;

(e) A record transmitted in accordance with KRS 407.5706 lacks authenticity or integrity;

(f) A proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;

(g) The order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under KRS 407.5101 to 407.5902;

(h) Payment, to the extent alleged arrears have been paid in whole or in part;

(i) In a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:

1. If the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

2. If the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(j) The order was made in violation of KRS 407.5711.

- (3) If a tribunal of this state does not recognize a Convention support order under paragraph (b), (d), or (i) of subsection (2) of this section:
- (a) The tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new Convention support order; and
 - (b) The **Office of the Attorney General**~~[Cabinet for Health and Family Services]~~ shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under KRS 407.5704.

➔Section 68. KRS 151B.015 is amended 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;
 - (i) ***Disability Determination Services Program***; and
 - (j) ~~(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 69. KRS 151B.212 is amended to read as follows:
- (1) For the purposes of KRS 151B.211 to 151B.214, "competitive integrated employment" means work that is performed on a full-time or part-time basis for which an individual is:
- (a) Earning compensation at or above minimum wage and comparable to the customary rate paid by the employer to employees without disabilities performing similar duties and with similar training and experience;
 - (b) Receiving the same level of benefits provided to other employees without disabilities in similar positions;
 - (c) Working at a location where the employee interacts with other individuals without disabilities; and

- (d) Receiving opportunities for advancement when appropriate similar to other employees without disabilities in similar positions.
- (2) The Employment First Council is hereby established within the Office of Vocational Rehabilitation as an advisory council to the executive and legislative branches of government on matters pertaining to increasing meaningful opportunities for competitive integrated employment for citizens with a disability seeking employment, regardless of their level of disability.
- (3) The Employment First Council shall be composed of twenty-eight (28) members. Members of the council shall be appointed by the Governor in a manner that is geographically and culturally representative of the population of the Commonwealth and shall include:
- (a) One (1) representative from the Office of Vocational Rehabilitation;
 - (b) One (1) representative from the Kentucky Workforce Innovation Board;
 - (c) One (1) representative from the Department of Education;
 - (d) One (1) representative from the Office of Career and Technical Education;
 - (e) One (1) representative from the Department for Medicaid Services;
 - (f) One (1) representative from the Department for Behavioral Health, Developmental and Intellectual Disabilities;
 - (g) One (1) representative from the Commonwealth Council on Developmental Disabilities;
 - (h) One (1) representative from Kentucky Protection and Advocacy;
 - (i) One (1) representative from the *Education and Labor Cabinet* [~~Department for Income Support~~], Disability Determination Services;
 - (j) One (1) representative from the Division of Behavioral Health;
 - (k) One (1) representative from the Kentucky Autism Training Center;
 - (l) One (1) representative from the Department for Behavioral Health, Developmental and Intellectual Disabilities, Office of Autism;
 - (m) One (1) representative from the University of Kentucky Human Development Institute;
 - (n) Two (2) representatives from a state vocational rehabilitation provider agency;
 - (o) One (1) representative from the Statewide Council for Vocational Rehabilitation;
 - (p) One (1) representative from the Kentucky Chamber of Commerce;
 - (q) One (1) representative from the Council of State Governments;
 - (r) Four (4) representatives each having at least one (1) of the following qualifications:
 1. A physical or mental impairment that substantially limits one (1) or more major life activity;
 2. A history or record of such an impairment; or
 3. A person who is perceived by others as having such an impairment;
 - (s) Two (2) representatives who have an immediate family member with a disability; and
 - (t) Four (4) representatives of business, industry, and labor.
- (4) After the initial appointments, members of the Employment First Council shall serve terms of three (3) years. Members shall be eligible to succeed themselves and shall serve until their successor is appointed.
- (5) Members of the Employment First Council shall not be paid for their service as council members, and shall not be reimbursed for any expenses involved in attending council meetings.
- (6) The Employment First Council shall elect a chair, a vice chair, and a legislative liaison from its council members who shall serve in those capacities until replaced. The legislative liaison shall communicate with the legislative and executive branch about the council's progress and ensure that the work of the council is separate and distinct from the work of the Statewide Council for Vocational Rehabilitation.

- (7) A majority of council members shall constitute a quorum for the purposes of conducting business. The council shall be subject to the provisions of the Kentucky Open Records Act, as set forth in KRS 61.870 to 61.884.
- (8) The Employment First Council shall meet quarterly, upon the call of the chair, or at the request of the secretary of the Education and Labor Cabinet. The council shall receive assistance in carrying out its administrative functions from the Department of Workforce Development and shall be attached to the Education and Labor Cabinet for administrative purposes.

➔Section 70. KRS 207.200 is amended to read as follows:

- (1) The Kentucky Department of Workplace Standards is authorized to enforce the employment provisions of KRS 207.130 to 207.240 in conjunction with the State Attorney General's office and the state and local courts.
- (2) Any individual with a disability requesting the intervention of the Kentucky Department of Workplace Standards under this section shall, within one hundred and eighty (180) days of the alleged incident, submit with his request a signed, sworn statement specifying and describing the disability or disabilities which affect him. This statement may be used by the commissioner of workplace standards or his representative to determine if the individual does, or does not, have a "physical disability" as defined in KRS 207.130(2). If the commissioner of workplace standards or his representative determines that the aggrieved individual does have a disability which falls under the definition in KRS 207.130(2), the Department of Workplace Standards shall provide a copy of the aggrieved individual's signed statement to the employer for his inspection.
- (3) In the event the employer wishes to challenge the validity of the statement, he shall so notify the commissioner of workplace standards, who shall in turn notify the aggrieved individual. If the aggrieved individual wishes the Department of Workplace Standards to continue its involvement with the case, he shall be required to submit to the commissioner of workplace standards, within thirty (30) days of such notice, a signed, sworn statement from a licensed physician of his choice, or from one of the state or federal agencies serving individuals with disabilities:
 - (a) Specifying and describing the disability or disabilities affecting the individual; and
 - (b) Indicating any specific type of employment for which such disability should be considered a bona fide or necessary reason for limitation or exclusion.
- (4) (a) The state agencies which may be consulted under subsection (3) of this section may include, but are not limited to, the following:
 1. Department of Education, Office of Vocational Rehabilitation Services;
 2. Cabinet for Health and Family Services, Department for Public Health;
 3. ***Education and Labor*** Cabinet~~[for Health and Family Services, Department for Income Support].~~
- (b) The commissioner of workplace standards, in conjunction with the agencies designated in this subsection, is authorized to adopt appropriate regulations governing the issuance and setting the standards of determinations of ability or disability;
- (c) The agencies designated in this subsection, and any other state agency which serves individuals with disabilities and which the commissioner of workplace standards deems proper, shall cooperate to the fullest with the Department of Workplace Standards in issuing a statement of disability and limitations as specified in subsection (3) of this section within twenty (20) days of the date the individual with a disability presents himself before such agency for examination.
- (5) (a) For the purposes of KRS 207.130 to 207.240, the commissioner of workplace standards, or his authorized representative, shall have the power to enter the place of employment of any employer, labor organization, or employment agency to inspect and copy employment records, to compare character of work and operations on which persons employed by him are engaged, to question such persons, and to obtain such other information as is reasonably necessary to make a preliminary determination that the aggrieved individual is, or is not, fully capable of carrying out the duties of the job which he or she had been denied;
- (b) In the event that a preliminary determination is made that the aggrieved individual is not fully capable of carrying out the duties of the job which he or she had been denied, the aggrieved individual and the employer shall both be so advised;

- (c) The aggrieved individual, within ten (10) days of receiving such notification, may file with the Department of Workplace Standards an application for reconsideration of the determination. Upon such application, the commissioner of workplace standards or his representative shall make a new determination within ten (10) days whether the aggrieved individual is, or is not, fully capable of carrying out the duties of the job which he or she had been denied. If the determination is again made that the aggrieved individual is not fully capable of carrying out these duties, the aggrieved individual and the employer shall both be so advised;
- (d) In the event that a preliminary determination has been made that the aggrieved individual is fully capable of carrying out the duties of the job which he or she had been denied, the employer, labor organization, or employment agency shall be so advised and encouraged to make an immediate offer to the aggrieved individual of the position which he or she had been denied. In the event the position has already been filled, the employer, labor organization, or employment agency shall be encouraged to make an offer to the aggrieved individual of the next available position for which he or she is qualified.

➔Section 71. KRS 403.212 is amended to read as follows:

- (1) The following provisions and child support table shall be the child support guidelines established for the Commonwealth of Kentucky.
- (2) The **Office of the Attorney General**~~[Cabinet for Health and Family Services shall]~~:
 - (a) Promulgate an administrative regulation in accordance with KRS Chapter 13A establishing a child support obligation worksheet; and
 - (b) Make accessible on its ~~website~~~~[Web site]~~ a manual providing examples or illustrations of the application of the child support guidelines and the child support obligation worksheet.
- (3) For the purposes of the child support guidelines:
 - (a) "Income" means actual gross income of the parent if employed to full capacity or potential income if unemployed or underemployed;
 - (b) "Gross income" includes income from any source, except as excluded in this subsection, and includes but is not limited to income from salaries, wages, retirement and pension funds, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, Supplemental Security Income (SSI), gifts, prizes, and alimony or maintenance received. Specifically excluded are benefits received from means-tested public assistance programs, including but not limited to public assistance as defined under Title IV-A of the Federal Social Security Act, and food stamps;
 - (c) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Straight-line depreciation, using Internal Revenue Service (IRS) guidelines, shall be the only allowable method of calculating depreciation expense in determining gross income. Specifically excluded from ordinary and necessary expenses for purposes of this guideline shall be investment tax credits or any other business expenses inappropriate for determining gross income for purposes of calculating child support. Income and expenses from self-employment or operation of a business shall be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. In most cases, this amount will differ from a determination of business income for tax purposes. Expense reimbursement or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business or personal use of business property or payments of expenses by a business, shall be counted as income if they are significant and reduce personal living expenses such as a company or business car, free housing, reimbursed meals, or club dues;
 - (d) "Self-support reserve" means a low-income adjustment amount to the obligated parent of nine hundred fifteen dollars (\$915) per month that considers the subsistence needs of the obligor with a limited ability to pay in accordance with 45 C.F.R. sec. 302.56(c)(1)(ii), and as applied under subsection (5) of this section;
 - (e) 1. If there is a finding that a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, except that a finding of voluntary unemployment or underemployment and a determination of potential income shall not

- be made for a parent who is incarcerated, physically or mentally incapacitated, or is caring for a very young child, age three (3) or younger, for whom the parents owe a joint legal responsibility;
2. A court may find a parent is voluntarily unemployed or underemployed without finding that the parent intended to avoid or reduce the child support obligation; and
 3. Imputation of potential income, when applicable, shall include consideration of the following circumstances of the parents, to the extent known:
 - a. Assets and residence;
 - b. Employment, earning history, and job skills;
 - c. Educational level, literacy, age, health, and criminal record that could impair the ability to gain or continue employment;
 - d. Record of seeking work;
 - e. Local labor market, including availability of employment for which the parent may be qualified and employable;
 - f. Prevailing earnings in the local labor market; and
 - g. Other relevant background factors, including employment barriers;
- (f) "Obligor" has the same meaning as in **Section 8 of this Act** ~~[KRS 205.710]~~;
- (g) "Imputed child support obligation" means the amount of child support the parent would be required to pay from application of the child support guidelines;
- (h) Income statements of the parents shall be verified by documentation of both current and past income. Suitable documentation shall include, but shall not be limited to, income tax returns, paystubs, employer statements, or receipts and expenses if self-employed;
- (i) "Combined monthly adjusted parental gross income" means the combined monthly gross incomes of both parents, less any of the following payments made by the parent:
1. The amount of pre-existing orders for current maintenance for prior spouses to the extent payment is actually made and the amount of current maintenance, if any, ordered paid in the proceeding before the court;
 2. The amount of pre-existing orders of current child support for prior-born children to the extent payment is actually made under those orders; and
 3. A deduction for the support to the extent payment is made, if a parent is legally responsible for and is actually providing support for other prior-born children who are not the subject of a particular proceeding. If the prior-born children reside with that parent, an "imputed child support obligation" shall be allowed in the amount which would result from application of the guidelines for the support of the prior-born children; and
- (j) "Split custody arrangement" means a situation where each parent has sole custody and decision-making authority while the child or children is in his or her residence. Visitation only occurs when the child is in residence with the other parent.
- (4) Any child support obligation shall be calculated by using the number of children for whom the parents share a joint legal responsibility.
- (5) (a) Except as provided in paragraph (b) of this subsection, the child support obligation set forth in the child support guidelines table shall be divided between the parents in proportion to their combined monthly adjusted parental gross income.
- (b) The child support obligation of an obligated parent whose monthly adjusted gross income is equal to or less than the amounts in subparagraphs 1. to 5. of this paragraph shall be calculated using the monthly adjusted gross income of the obligated parent alone to provide for the self-support reserve. The following monthly adjusted gross income amounts shall qualify an individual for the self-support reserve:
1. One thousand one hundred dollars (\$1,100) with one (1) child;
 2. One thousand three hundred dollars (\$1,300) with two (2) children;

3. One thousand four hundred dollars (\$1,400) with three (3) children;
 4. One thousand five hundred dollars (\$1,500) with four (4) or five (5) children; or
 5. One thousand six hundred dollars (\$1,600) with six (6) or more children.
- (c) The obligated parent shall pay the lesser support amount calculated in accordance with:
1. Paragraph (a) of this subsection;
 2. Paragraph (b) of this subsection; and
 3. As determined under KRS 403.2121 if the shared parenting time credit is applicable.
- (6) The minimum amount of child support shall be sixty dollars (\$60) per month, except as provided in KRS 403.2121(3).
- (7) The court may use its judicial discretion in determining child support in circumstances where combined adjusted parental gross income exceeds the uppermost levels of the guideline table.
- (8) The child support obligation in a split custody arrangement shall be calculated in the following manner:
- (a) Two (2) separate child support obligation worksheets shall be prepared, one (1) for each household, using the number of children born of the relationship in each separate household, rather than the total number of children born of the relationship.
 - (b) The parent with the greater monthly obligation amount shall pay the difference between the obligation amounts, as determined by the worksheets, to the other parent.
- (9) The child support guidelines table is as follows:

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME						
	ONE CHILD	TWO CHILDREN	THREE	FOUR	FIVE	SIX OR MORE
\$ 0	\$60	\$60	\$60	\$60	\$60	\$60
100	60	60	60	60	60	60
200	60	60	60	60	60	60
300	60	60	60	60	60	60
400	60	60	60	60	60	60
500	60	60	60	60	60	60
600	60	60	60	60	60	60
700	60	60	60	60	60	60
800	60	60	60	60	60	60
900	60	60	60	60	60	60
1,000	85	85	85	85	85	85
1,100	148	150	152	154	155	157
1,200	200	231	234	237	239	242
1,300	216	312	316	320	323	327
1,400	231	339	398	403	407	412
1,500	247	362	437	486	491	497

ACTS OF THE GENERAL ASSEMBLY

1,600	262	384	464	518	570	582
1,700	277	406	491	548	603	655
1,800	292	428	517	578	635	691
1,900	307	450	544	607	668	726
2,000	322	472	570	637	701	762
2,100	337	494	597	667	734	797
2,200	352	516	624	697	766	833
2,300	367	538	650	726	799	869
2,400	382	560	677	756	832	904
2,500	397	582	704	786	865	940
2,600	412	604	730	816	897	975
2,700	427	626	757	845	930	1,011
2,800	442	648	783	875	963	1,046
2,900	457	670	810	905	995	1,082
3,000	472	692	837	935	1,028	1,118
3,100	487	714	863	964	1,061	1,153
3,200	502	737	890	994	1,094	1,189
3,300	517	759	917	1,024	1,126	1,224
3,400	532	781	943	1,054	1,159	1,260
3,500	547	803	970	1,083	1,192	1,295
3,600	562	825	997	1,113	1,224	1,331
3,700	577	847	1,023	1,143	1,257	1,367
3,800	592	869	1,050	1,173	1,290	1,402
3,900	607	891	1,076	1,202	1,323	1,438
4,000	621	912	1,102	1,230	1,353	1,471
4,100	634	931	1,125	1,256	1,382	1,502
4,200	647	950	1,148	1,282	1,410	1,533
4,300	660	969	1,171	1,308	1,439	1,564
4,400	673	988	1,194	1,334	1,467	1,595
4,500	686	1,007	1,217	1,359	1,495	1,625
4,600	699	1,026	1,240	1,385	1,524	1,656
4,700	712	1,045	1,263	1,411	1,552	1,687
4,800	725	1,064	1,286	1,437	1,580	1,718
4,900	738	1,084	1,309	1,463	1,609	1,749
5,000	751	1,103	1,332	1,488	1,637	1,780
5,100	764	1,122	1,356	1,514	1,666	1,810
5,200	777	1,141	1,379	1,540	1,694	1,841
5,300	790	1,160	1,402	1,566	1,722	1,872
5,400	799	1,172	1,415	1,581	1,739	1,890

5,500	805	1,177	1,419	1,585	1,744	1,896
5,600	810	1,181	1,423	1,590	1,749	1,901
5,700	815	1,186	1,427	1,594	1,753	1,906
5,800	820	1,191	1,431	1,598	1,758	1,911
5,900	825	1,195	1,435	1,603	1,763	1,916
6,000	831	1,200	1,439	1,607	1,768	1,922
6,100	837	1,208	1,449	1,618	1,780	1,935
6,200	844	1,217	1,459	1,629	1,792	1,948
6,300	851	1,226	1,469	1,641	1,805	1,962
6,400	858	1,234	1,479	1,652	1,817	1,975
6,500	865	1,243	1,489	1,663	1,829	1,988
6,600	871	1,251	1,499	1,674	1,841	2,002
6,700	881	1,263	1,513	1,690	1,859	2,021
6,800	892	1,278	1,530	1,709	1,880	2,044
6,900	903	1,292	1,548	1,729	1,902	2,067
7,000	914	1,306	1,565	1,748	1,923	2,090
7,100	925	1,320	1,582	1,767	1,944	2,113
7,200	935	1,335	1,600	1,787	1,965	2,136
7,300	946	1,348	1,616	1,805	1,986	2,159
7,400	954	1,360	1,630	1,820	2,003	2,177
7,500	962	1,372	1,643	1,836	2,019	2,195
7,600	969	1,384	1,657	1,851	2,036	2,213
7,700	977	1,396	1,670	1,866	2,052	2,231
7,800	984	1,407	1,683	1,880	2,068	2,248
7,900	991	1,419	1,696	1,895	2,084	2,266
8,000	996	1,426	1,704	1,903	2,094	2,276
8,100	1,000	1,429	1,709	1,908	2,099	2,282
8,200	1,004	1,433	1,713	1,914	2,105	2,288
8,300	1,008	1,437	1,718	1,919	2,110	2,294
8,400	1,012	1,441	1,722	1,924	2,116	2,300
8,500	1,016	1,444	1,727	1,929	2,122	2,306
8,600	1,020	1,448	1,731	1,934	2,127	2,312
8,700	1,026	1,456	1,740	1,944	2,138	2,324
8,800	1,033	1,464	1,749	1,953	2,149	2,336
8,900	1,039	1,472	1,758	1,963	2,160	2,347
9,000	1,046	1,480	1,766	1,973	2,170	2,359
9,100	1,052	1,488	1,775	1,983	2,181	2,371
9,200	1,059	1,496	1,784	1,993	2,192	2,382
9,300	1,065	1,502	1,792	2,002	2,202	2,393

ACTS OF THE GENERAL ASSEMBLY

9,400	1,070	1,507	1,799	2,010	2,211	2,403
9,500	1,075	1,511	1,807	2,018	2,220	2,413
9,600	1,080	1,516	1,814	2,026	2,229	2,423
9,700	1,085	1,520	1,822	2,035	2,238	2,433
9,800	1,090	1,524	1,829	2,043	2,247	2,443
9,900	1,094	1,529	1,836	2,051	2,256	2,453
10,000	1,099	1,533	1,844	2,059	2,265	2,463
10,100	1,104	1,538	1,851	2,068	2,275	2,472
10,200	1,109	1,542	1,859	2,076	2,284	2,482
10,300	1,115	1,549	1,867	2,086	2,294	2,494
10,400	1,123	1,560	1,878	2,098	2,308	2,509
10,500	1,130	1,571	1,889	2,110	2,321	2,523
10,600	1,137	1,582	1,900	2,123	2,335	2,538
10,700	1,145	1,593	1,911	2,135	2,349	2,553
10,800	1,152	1,604	1,922	2,147	2,362	2,568
10,900	1,159	1,615	1,933	2,160	2,376	2,582
11,000	1,167	1,626	1,944	2,172	2,389	2,597
11,100	1,174	1,637	1,956	2,185	2,403	2,612
11,200	1,182	1,649	1,968	2,198	2,418	2,628
11,300	1,191	1,661	1,980	2,212	2,433	2,644
11,400	1,199	1,673	1,992	2,225	2,448	2,660
11,500	1,207	1,685	2,004	2,239	2,462	2,677
11,600	1,215	1,695	2,016	2,252	2,477	2,693
11,700	1,222	1,705	2,029	2,266	2,493	2,710
11,800	1,229	1,714	2,041	2,280	2,508	2,726
11,900	1,237	1,723	2,054	2,294	2,523	2,743
12,000	1,244	1,732	2,066	2,308	2,539	2,759
12,100	1,252	1,742	2,078	2,322	2,554	2,776
12,200	1,259	1,751	2,091	2,336	2,569	2,793
12,300	1,267	1,760	2,103	2,349	2,584	2,809
12,400	1,274	1,769	2,116	2,363	2,600	2,826
12,500	1,282	1,778	2,128	2,377	2,615	2,842
12,600	1,289	1,788	2,141	2,391	2,630	2,859
12,700	1,296	1,797	2,153	2,405	2,645	2,876
12,800	1,304	1,806	2,165	2,419	2,661	2,892
12,900	1,311	1,815	2,178	2,433	2,676	2,909
13,000	1,319	1,825	2,190	2,447	2,691	2,925
13,100	1,326	1,834	2,203	2,461	2,707	2,942
13,200	1,334	1,843	2,215	2,474	2,722	2,959

13,300	1,341	1,852	2,228	2,488	2,737	2,975
13,400	1,348	1,861	2,238	2,500	2,750	2,990
13,500	1,353	1,868	2,247	2,510	2,761	3,001
13,600	1,359	1,875	2,255	2,519	2,771	3,012
13,700	1,364	1,882	2,264	2,529	2,781	3,023
13,800	1,370	1,889	2,272	2,538	2,792	3,035
13,900	1,375	1,896	2,281	2,547	2,802	3,046
14,000	1,381	1,903	2,289	2,557	2,812	3,057
14,100	1,386	1,910	2,297	2,566	2,822	3,068
14,200	1,391	1,916	2,304	2,574	2,831	3,078
14,300	1,396	1,922	2,312	2,582	2,841	3,088
14,400	1,401	1,929	2,319	2,591	2,850	3,098
14,500	1,406	1,935	2,327	2,599	2,859	3,108
14,600	1,410	1,941	2,334	2,607	2,868	3,118
14,700	1,415	1,947	2,342	2,616	2,877	3,128
14,800	1,420	1,954	2,349	2,624	2,886	3,138
14,900	1,425	1,960	2,357	2,632	2,896	3,147
15,000	1,430	1,966	2,364	2,641	2,905	3,157
15,100	1,435	1,972	2,371	2,649	2,914	3,167
15,200	1,440	1,978	2,379	2,657	2,923	3,177
15,300	1,444	1,985	2,386	2,666	2,932	3,187
15,400	1,449	1,991	2,394	2,674	2,941	3,197
15,500	1,454	1,997	2,401	2,682	2,950	3,207
15,600	1,459	2,003	2,409	2,691	2,960	3,217
15,700	1,464	2,010	2,416	2,699	2,969	3,227
15,800	1,469	2,016	2,424	2,707	2,978	3,237
15,900	1,474	2,022	2,431	2,715	2,987	3,247
16,000	1,478	2,028	2,439	2,724	2,996	3,257
16,100	1,484	2,035	2,445	2,732	3,005	3,266
16,200	1,490	2,041	2,452	2,739	3,013	3,275
16,300	1,495	2,047	2,459	2,747	3,022	3,285
16,400	1,501	2,053	2,466	2,755	3,030	3,294
16,500	1,506	2,059	2,473	2,763	3,039	3,303
16,600	1,512	2,065	2,480	2,770	3,047	3,313
16,700	1,518	2,071	2,487	2,778	3,056	3,322
16,800	1,523	2,077	2,494	2,786	3,065	3,331
16,900	1,529	2,083	2,501	2,794	3,073	3,340
17,000	1,534	2,089	2,508	2,801	3,082	3,350
17,100	1,540	2,095	2,515	2,809	3,090	3,359

ACTS OF THE GENERAL ASSEMBLY

17,200	1,545	2,102	2,522	2,817	3,099	3,368
17,300	1,551	2,108	2,529	2,825	3,107	3,378
17,400	1,557	2,114	2,536	2,832	3,116	3,387
17,500	1,562	2,120	2,543	2,840	3,124	3,396
17,600	1,568	2,126	2,550	2,848	3,133	3,405
17,700	1,573	2,132	2,557	2,856	3,141	3,415
17,800	1,579	2,138	2,563	2,863	3,149	3,423
17,900	1,584	2,144	2,570	2,870	3,157	3,432
18,000	1,589	2,149	2,576	2,878	3,166	3,441
18,100	1,595	2,155	2,583	2,885	3,174	3,450
18,200	1,600	2,161	2,590	2,893	3,182	3,459
18,300	1,605	2,167	2,596	2,900	3,190	3,467
18,400	1,611	2,173	2,603	2,907	3,198	3,476
18,500	1,616	2,178	2,609	2,915	3,206	3,485
18,600	1,621	2,184	2,616	2,922	3,214	3,494
18,700	1,627	2,190	2,623	2,929	3,222	3,503
18,800	1,632	2,196	2,629	2,937	3,231	3,512
18,900	1,637	2,202	2,636	2,944	3,239	3,520
19,000	1,642	2,207	2,642	2,952	3,247	3,529
19,100	1,648	2,213	2,649	2,959	3,255	3,538
19,200	1,653	2,219	2,656	2,966	3,263	3,547
19,300	1,658	2,225	2,662	2,974	3,271	3,556
19,400	1,664	2,231	2,669	2,981	3,279	3,565
19,500	1,669	2,236	2,675	2,989	3,287	3,573
19,600	1,674	2,242	2,682	2,996	3,295	3,582
19,700	1,680	2,248	2,689	3,003	3,304	3,591
19,800	1,685	2,254	2,695	3,011	3,312	3,600
19,900	1,690	2,260	2,702	3,018	3,320	3,609
20,000	1,696	2,265	2,709	3,025	3,328	3,617
20,100	1,701	2,271	2,715	3,033	3,336	3,626
20,200	1,706	2,277	2,722	3,040	3,344	3,635
20,300	1,710	2,282	2,728	3,047	3,352	3,643
20,400	1,713	2,287	2,733	3,053	3,358	3,651
20,500	1,717	2,292	2,739	3,059	3,365	3,658
20,600	1,720	2,297	2,745	3,066	3,372	3,666
20,700	1,723	2,302	2,750	3,072	3,379	3,673
20,800	1,726	2,307	2,756	3,078	3,386	3,681
20,900	1,730	2,313	2,761	3,084	3,393	3,688
21,000	1,733	2,318	2,767	3,091	3,400	3,695

21,100	1,736	2,323	2,773	3,097	3,407	3,703
21,200	1,739	2,328	2,778	3,103	3,413	3,710
21,300	1,743	2,333	2,784	3,109	3,420	3,718
21,400	1,746	2,338	2,789	3,116	3,427	3,725
21,500	1,749	2,343	2,795	3,122	3,434	3,733
21,600	1,752	2,348	2,801	3,128	3,441	3,740
21,700	1,756	2,353	2,806	3,134	3,448	3,748
21,800	1,759	2,358	2,812	3,141	3,455	3,755
21,900	1,762	2,363	2,817	3,147	3,462	3,763
22,000	1,765	2,368	2,823	3,153	3,469	3,770
22,100	1,769	2,373	2,829	3,160	3,475	3,778
22,200	1,772	2,378	2,834	3,166	3,482	3,785
22,300	1,775	2,383	2,840	3,172	3,489	3,793
22,400	1,778	2,388	2,845	3,178	3,496	3,800
22,500	1,782	2,393	2,851	3,185	3,503	3,808
22,600	1,785	2,398	2,857	3,191	3,510	3,815
22,700	1,788	2,403	2,862	3,197	3,517	3,823
22,800	1,791	2,408	2,868	3,203	3,524	3,830
22,900	1,795	2,413	2,873	3,210	3,531	3,838
23,000	1,798	2,418	2,879	3,216	3,537	3,845
23,100	1,801	2,423	2,885	3,222	3,544	3,853
23,200	1,804	2,429	2,890	3,228	3,551	3,860
23,300	1,808	2,434	2,896	3,235	3,558	3,868
23,400	1,811	2,439	2,901	3,241	3,565	3,875
23,500	1,814	2,444	2,907	3,247	3,572	3,883
23,600	1,817	2,449	2,913	3,253	3,579	3,890
23,700	1,821	2,454	2,918	3,260	3,586	3,898
23,800	1,824	2,459	2,924	3,266	3,593	3,905
23,900	1,827	2,464	2,929	3,272	3,599	3,913
24,000	1,830	2,469	2,935	3,278	3,606	3,920
24,100	1,834	2,474	2,941	3,285	3,613	3,928
24,200	1,837	2,479	2,946	3,291	3,620	3,935
24,300	1,840	2,484	2,952	3,297	3,627	3,943
24,400	1,843	2,489	2,957	3,304	3,634	3,950
24,500	1,847	2,494	2,963	3,310	3,641	3,957
24,600	1,850	2,499	2,969	3,316	3,648	3,965
24,700	1,853	2,504	2,974	3,322	3,655	3,972
24,800	1,856	2,509	2,980	3,329	3,661	3,980
24,900	1,860	2,514	2,986	3,335	3,668	3,987

ACTS OF THE GENERAL ASSEMBLY

25,000	1,863	2,519	2,991	3,341	3,675	3,995
25,100	1,866	2,524	2,997	3,347	3,682	4,002
25,200	1,869	2,529	3,002	3,354	3,689	4,010
25,300	1,873	2,534	3,008	3,360	3,696	4,017
25,400	1,876	2,540	3,014	3,366	3,703	4,025
25,500	1,879	2,545	3,019	3,372	3,710	4,032
25,600	1,882	2,550	3,025	3,379	3,716	4,040
25,700	1,886	2,555	3,030	3,385	3,723	4,047
25,800	1,889	2,560	3,036	3,391	3,730	4,055
25,900	1,892	2,565	3,042	3,397	3,737	4,062
26,000	1,895	2,570	3,047	3,404	3,744	4,070
26,100	1,899	2,575	3,053	3,410	3,751	4,077
26,200	1,902	2,580	3,058	3,416	3,758	4,085
26,300	1,905	2,585	3,064	3,422	3,765	4,092
26,400	1,908	2,590	3,070	3,429	3,772	4,100
26,500	1,912	2,595	3,075	3,435	3,778	4,107
26,600	1,915	2,600	3,081	3,441	3,785	4,115
26,700	1,918	2,605	3,086	3,447	3,792	4,122
26,800	1,921	2,610	3,092	3,454	3,799	4,130
26,900	1,925	2,615	3,098	3,460	3,806	4,137
27,000	1,928	2,620	3,103	3,466	3,813	4,145
27,100	1,931	2,625	3,109	3,473	3,820	4,152
27,200	1,934	2,630	3,114	3,479	3,827	4,160
27,300	1,938	2,635	3,120	3,485	3,834	4,167
27,400	1,941	2,640	3,126	3,491	3,840	4,175
27,500	1,944	2,645	3,131	3,498	3,847	4,182
27,600	1,948	2,650	3,137	3,504	3,854	4,190
27,700	1,951	2,656	3,142	3,510	3,861	4,197
27,800	1,954	2,661	3,148	3,516	3,868	4,205
27,900	1,957	2,666	3,154	3,523	3,875	4,212
28,000	1,961	2,671	3,159	3,529	3,882	4,219
28,100	1,964	2,676	3,165	3,535	3,889	4,227
28,200	1,967	2,681	3,170	3,541	3,896	4,234
28,300	1,970	2,686	3,176	3,548	3,902	4,242
28,400	1,972	2,689	3,179	3,551	3,907	4,247
28,500	1,974	2,691	3,182	3,555	3,911	4,251
28,600	1,976	2,694	3,185	3,558	3,914	4,255
28,700	1,978	2,696	3,188	3,561	3,918	4,259
28,800	1,980	2,699	3,191	3,565	3,922	4,263

28,900	1,982	2,701	3,194	3,568	3,926	4,268
29,000	1,984	2,704	3,197	3,571	3,930	4,272
29,100	1,986	2,707	3,200	3,575	3,934	4,276
29,200	1,988	2,709	3,203	3,578	3,938	4,280
29,300	1,990	2,712	3,206	3,581	3,941	4,284
29,400	1,992	2,714	3,209	3,584	3,945	4,289
29,500	1,993	2,717	3,212	3,588	3,949	4,293
29,600	1,995	2,719	3,215	3,591	3,953	4,297
29,700	1,997	2,722	3,218	3,594	3,957	4,301
29,800	1,999	2,724	3,221	3,598	3,961	4,305
29,900	2,001	2,727	3,224	3,601	3,965	4,310
30,000	2,003	2,730	3,227	3,604	3,968	4,314

➔Section 72. KRS 405.405 is amended to read as follows:

The definitions provided in **Section 8 of this Act** [KRS 205.710] shall be applicable to KRS 405.430 to 405.530, unless the context requires otherwise.

➔Section 73. KRS 407.5101 is amended to read as follows:

As used in KRS 407.5101 to 407.5902:

- (1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent;
- (2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country;
- (3) "Convention" means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007;
- (4) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support;
- (5) "Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:
 - (a) Which has been declared under the law of the United States to be a foreign reciprocating country;
 - (b) Which has established a reciprocal arrangement for child support with this state as provided in KRS 407.5308;
 - (c) Which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under KRS 407.5101 to 407.5902; or
 - (d) In which the Convention is in force with respect to the United States;
- (6) "Foreign support order" means a support order of a foreign tribunal;
- (7) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the Convention;
- (8) "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six (6) consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six (6) months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six (6) month or other period;
- (9) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state;

- (10) "Income-withholding order" means an order or other legal process directed to an obligor's employer as defined in *Section 8 of this Act* [KRS 205.710] or other debtor to withhold support from the income of the obligor;
- (11) "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country;
- (12) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child;
- (13) "Issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child;
- (14) "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or a judgment determining parentage of a child;
- (15) "Law" includes decisional and statutory law and rules and regulations having the force of law;
- (16) "Obligee" means:
- (a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order or a judgment determining parentage of a child has been issued;
 - (b) A foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;
 - (c) An individual seeking a judgment determining parentage of the individual's child; or
 - (d) A person that is a creditor in a proceeding under Article 7 of this chapter;
- (17) "Obligor" means an individual, or the estate of a decedent that:
- (a) Owes or is alleged to owe a duty of support;
 - (b) Is alleged but has not been adjudicated to be a parent of a child;
 - (c) Is liable under a support order; or
 - (d) Is a debtor in a proceeding under Article 7 of this chapter;
- (18) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country;
- (19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;
- (20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;
- (21) "Register" means to file in a tribunal of this state, a support order or judgment determining parentage of a child issued in another state or foreign country;
- (22) "Registering tribunal" means a tribunal in which a support order or judgment determining parentage of a child is registered;
- (23) "Responding state" means a state in which a petition or comparable pleading for support or to determine parentage of a child is filed or to which a petition or comparable pleading is forwarded for filing from another state or foreign country;
- (24) "Responding tribunal" means the authorized tribunal in a responding state or foreign country;
- (25) "Spousal-support order" means a support order for a spouse or former spouse of the obligor;
- (26) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession under the jurisdiction of the United States. The term includes an Indian nation or tribe;
- (27) "Support enforcement agency" means a public official, governmental entity, or private agency authorized to:
- (a) Seek enforcement of support orders or laws relating to the duty of support;

- (b) Seek establishment or modification of child support;
 - (c) Request determination of parentage;
 - (d) Attempt to locate obligors or their assets; or
 - (e) Request determination of the controlling child support order;
- (28) "Support order" means a judgment, decree, decision, directive, or order, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney's fees, and other relief; and
- (29) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage of a child.

➔Section 74. KRS 45A.550 is amended to read as follows:

As used in KRS 45A.550 to 45A.554 and KRS 11A.130, unless the context requires otherwise:

- (1) "Privatize" means to contract out in order to procure the services of a private vendor to provide a service that is similar to, and in lieu of, a service provided by state employees of the privatizing agency;
- (2) "Privatization contract" means an agreement or combination of a series of agreements by which a private vendor agrees to provide services that are substantially similar to, and in lieu of, services previously provided, in whole or in part, by at least ten (10) permanent, full-time, budgeted employees of the state agency. This term includes but is not limited to concession contracts. This term does not include personal service contracts as defined in KRS 45A.690, contracts entered into pursuant to KRS Chapter 176, 177, 178, 179, 180, or 181, Medicaid provider contracts, architect and engineering contracts entered into pursuant to KRS 45A.800 to 45A.835, price contracts, construction contracts, or memoranda of understanding or memoranda of agreements or program administration contracts with the *Office of the Attorney General*~~[Cabinet for Human Resources]~~, including contracts for child support collections and enforcement with contracting officials as authorized by *Section 9 of this Act*~~[KRS 205.712]~~; and
- (3) "Services" shall not include administration and support functions of government. "Administration and support functions" shall include, but not be limited to, construction contracts, bond counsel and bond underwriting services, architect and engineering services, price contracts, personal service contracts, and memoranda of understanding and memoranda of agreement.

➔Section 75. KRS 314.077 is amended to read as follows:

- (1) Notwithstanding any provision of law to the contrary, upon receipt of a notice from the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~ that a nurse is in violation of *Section 9 of this Act*~~[KRS 205.712]~~, the board shall issue an order suspending the nurse's license. If the individual is an applicant for licensure, the board shall issue a denial of licensure. The order shall constitute disciplinary action against the nurse or individual.
- (2) Suspension of a license or denial of licensure under subsection (1) of this section shall continue until the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~ notifies the board that the nurse or individual is no longer in violation of *Section 9 of this Act*~~[KRS 205.712]~~.
- (3) A nurse shall not be entitled to a hearing before the board on a suspension of a license in child support cases administered by the *Office of the Attorney General*~~[Cabinet for Health and Family Services]~~ in accordance with 42 U.S.C. ~~sec. [secs.]~~ 651 et seq.
- (4) To reinstate a license suspended under this section, a nurse shall comply with all reinstatement requirements.

➔Section 76. KRS 403.090 is amended to read as follows:

- (1) The fiscal court of any county may, by resolution, authorize the appointment of a "friend of the court." If the Circuit Court of the county has but one (1) judge, the appointment shall be made by the judge. If the court has two (2) or more judges, the appointment shall be made by joint action of the judges, at the general term. The person appointed to the office of friend of the court shall serve at the pleasure of, and subject to removal by, the appointing authority. The person appointed shall be a licensed practicing attorney. The appointed person shall take the constitutional oath of office and shall give bond in such sum as may be fixed by the appointing judge or judges.

- (2) Except for those cases administered pursuant to 42 U.S.C. ~~sec. [secs.]~~ 651 et seq., it shall be the duty of the friend of the court to supervise and enforce the payment of sums ordered or adjudged by the Circuit Court in divorce actions to be paid for the care and maintenance of minor children. All persons who have been ordered or adjudged by the court, in connection with divorce actions, to make payments for the care and maintenance of children, shall, if so ordered by the court, make such payments to the friend of the court. The friend of the court shall see that the payments, except for those cases administered pursuant to 42 U.S.C. ~~sec. [secs.]~~ 651 et seq., are properly applied in accordance with the order or judgment. However, if the court so directs, the payments may be made through the juvenile session of District Court of the county; in such case the friend of the court shall render such assistance as may be required in keeping records concerning such payments and in the enforcement of delinquent payments, and the Circuit Court may direct that a designated amount or portion of the funds appropriated by the fiscal court for expenses of the friend of the court be paid to the juvenile session of District Court as reimbursement for the expenses incurred by the juvenile session of District Court in connection with the handling of such payments. The friend of the court shall promptly investigate all cases where payments have become delinquent, and when necessary shall cause the delinquent person to be brought before the court for the purpose of compelling payment. The friend of the court shall ascertain the facts concerning the care, custody, and maintenance of children for whom payments are being made, and shall report to the court all cases in which the children are not receiving proper care or maintenance, or in which the person having custody is failing to furnish proper custody. He shall make such other reports to the court as the court may require.
- (3) In the event that a waiver is granted under 42 U.S.C. ~~sec. [secs.]~~ 651 et seq., allowing payment of wage withholding collections to be directed to the friend of the court, an obligor shall be given the option of payment either to the friend of the court or the centralized collection agency.
- (4) In any action for divorce where the parties have minor children, the friend of the court, if requested by the trial judge, shall make such investigation as will enable the friend of the court to ascertain all facts and circumstances that will affect the rights and interests of the children and will enable the court to enter just and proper orders and judgment concerning the care, custody, and maintenance of the children. The friend of the court shall make a report to the trial judge, at a time fixed by the judge, setting forth recommendations as to the care, custody, and maintenance of the children. The friend of the court may request the court to postpone the final submission of any case to give the friend of the court a reasonable time in which to complete the investigation.
- (5) The friend of the court shall have authority to secure the issuance by the court of any order, rule, or citation necessary for the proper enforcement of orders and judgments in divorce actions concerning the custody, care, and maintenance of children. In performing duties under subsection (4) of this section the friend of the court shall attend the taking of depositions within the county, and shall have authority to cross-examine the witnesses. In the case of depositions taken on interrogatories, the friend of the court may file cross-interrogatories. The friend of the court shall be duly notified of the time and place of the taking of depositions in all divorce actions where the parties have minor children, and shall attend the taking of all such depositions when the friend of the court deems it necessary for the protection of the minor children, or when the friend of the court may be directed by the court to attend.
- (6) The friend of the court shall not directly or indirectly represent any party to a divorce action except as herein authorized to represent the minor children of parties to a divorce action, but if an allowance is made for the support of a spouse and an infant child or children, may proceed to enforce the payment of the allowance made to the spouse also.
- (7) Where a friend of the court is acting as a designee of the *Office of the Attorney General* ~~[cabinet]~~ pursuant to KRS *Section 9 of this Act* ~~[205.712]~~ and an applicant for Title IV-D services pursuant to *Section 13 of this Act* ~~[KRS 205.721]~~ has requested a modification of an existing child support order pursuant to a divorce or other judicial order, the friend of the court shall seek the modification, providing all jurisdictional requirements are met. The friend of the court's representation shall extend only for the limited purpose of seeking a modification of an existing child support order consistent with the provisions of KRS 403.212 or 403.2121.
- (8) The fiscal court of any county which has authorized the appointment of a friend of the court under this section shall, by resolution, fix a reasonable compensation for the friend of the court and make a reasonable allowance for necessary expenses, equipment, and supplies, payable out of the general fund of the county, upon approval of the appointing judge or judges.

➔Section 77. KRS 405.500 is amended to read as follows:

- (1) Whenever **Sections 8 to 46 of this Act or** KRS ~~205.715 to 205.800,~~ 403.215, 405.405 to 405.520, 405.991(2), ~~or~~ and 530.050 require delivery of a notice or other communication in person or by certified mail, return receipt requested, receipt shall be rebuttably presumed if the obligor or any other adult with apparent authority at the obligor's address signs a receipt or if the obligor or other adult refuses to accept the notice or communication.
- (2) In the case of a notice to withhold and deliver property served on a person in possession or control of property, receipt shall be rebuttably presumed if the person to whom the order is directed signs or refuses to sign a receipt or if his employee, agent or other adult with apparent authority signs or refuses to sign a receipt.

➔Section 78. KRS 205.172 is amended to read as follows:

The **Office of the Attorney General** ~~Cabinet for Health and Family Services~~ shall submit a report to the Legislative Research Commission on efforts to implement KRS 205.1781, 205.193, 205.200, 205.5371, 205.5373, 205.5375, 205.5376, and **Section 14 of this Act** ~~205.725~~ no later than December 1, 2022, within one (1) year after July 14, 2022, and at any time thereafter upon request from the Legislative Research Commission.

➔Section 79. KRS 205.173 is amended to read as follows:

The Attorney General shall:

- (1) On behalf of the Commonwealth of Kentucky, have jurisdiction to enforce this chapter; and
- (2) Bring an action against the Cabinet for Health and Family Services if any statutory provisions are not fully implemented as required by KRS 205.178, 205.1781, 205.1783, 205.193, 205.200, 205.231, 205.232, 205.525, 205.5371, 205.5372, 205.5373, 205.5374, 205.5375, 205.5376, and **Section 14 of this Act** ~~205.725~~ or for any violation thereof.

➔Section 80. KRS 205.191 is amended to read as follows:

For the purposes of KRS 205.178, 205.193, 205.200, 205.231, 205.232, 205.525, and **Section 14 of this Act** ~~205.725~~, unless context requires otherwise:

- (1) "Cash assistance":
 - (a) Means cash benefits provided under this chapter, including via an electronic benefit transfer card; and
 - (b) Does not include foster care payments, kinship care payments, fictive kin care payments, or relative placement payments made by the cabinet; and
- (2) "Public assistance" has the same meaning as in KRS 205.010 but does not include foster care payments, kinship care payments, fictive kin care payments, or relative placement payments made by the cabinet.

➔Section 81. KRS 405.470 is amended to read as follows:

- (1) The **Attorney General** ~~secretary~~ may collect delinquent child support by issuing an order to withhold and deliver earnings or property of any kind, real and personal, including booting of vehicle in accordance with administrative regulations promulgated under **Section 18 of this Act** ~~KRS 205.745~~, which the **Attorney General** ~~secretary~~ has reason to believe are due, owing or belonging to the parent.
- (2) Fifty percent (50%) of the disposable earnings against which a support debt is asserted shall be exempt and may be delivered to the obligor. The only other exemptions allowed shall be those provided in KRS 427.060.
- (3) The order shall continue to operate until the child support debt is paid in full and shall take priority over all other debts and creditors of such debtor.

➔Section 82. KRS 131.672 is amended to read as follows:

- (1) To assist the department in the collection of delinquent taxes and debts owed to the Commonwealth, the department shall implement and operate a financial institution match system for the purpose of identifying and seizing the financial assets of delinquent taxpayers and debtors as identified by the department. The provisions of KRS 131.670 to 131.676 shall be applied uniformly to all financial institutions within the Commonwealth holding accounts subject to levy as authorized by KRS 131.500 and shall not be implemented in any financial institution unless and until the department is prepared to implement the system in ninety percent (90%) of all financial institutions within a period of no longer than eighteen (18) months from June 26, 2007, or unless the financial institution in which the system will be implemented and the department agree, in writing, to implement the system sooner in that financial institution.

- (2) The department and the financial institution shall implement and operate the system identified in subsection (1) of this section by use of the data match system operated by the financial institution as required by **Sections 30 and 31 of this Act** ~~[KRS 205.772 and 205.774]~~ for the purpose of administering the child support enforcement programs of the Commonwealth.
- (3) (a) When the department determines that the name, record address, and either Social Security number or taxpayer identification number of an account with a financial institution matches the name, record address, and either the Social Security number or taxpayer identification number of a delinquent taxpayer or debtor, a lien or levy shall, subject to the provisions of subsection (4) of this section, arise against the assets in the account at the time of receipt of the notice by the financial institution at which the account is maintained.
- (b) The department shall provide notice of the following to the debtor or delinquent taxpayer and the financial institution:
1. The match;
 2. The lien or levy arising therefrom; and
 3. The action to be taken to surrender or encumber the account with the lien or levy for delinquent taxes.

Notice shall be provided to the debtor or delinquent taxpayer within two (2) business days of the date the notice is sent to the financial institution.

- (4) A financial institution ordered to surrender or encumber an account shall be entitled to collect its normally scheduled account activity fees to maintain the account during the period of time the account is seized or encumbered.
- (5) A financial institution may charge an account levied on by the department a fee of not more than twenty dollars (\$20), which may be deducted from the account prior to remitting any funds to the department.
- (6) The department shall bear the cost or, if paid by the delinquent taxpayer or debtor, reimburse the delinquent taxpayer or debtor for any bank charges incurred as a result of any erroneous lien or levy by the department, provided the erroneous lien or levy was caused by department error and, prior to the issuance of the erroneous lien or levy, the delinquent taxpayer or debtor timely responded to all contacts by the department and provided information or documentation sufficient to establish his or her position.
- (7) The department shall promulgate administrative regulations to implement KRS 131.670 to 131.676.
- (8) For purposes of this section, "financial institution" has the same meaning as provided in **Section 30 of this Act** ~~[KRS 205.772]~~.

➔Section 83. KRS 205.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 205.170 or subsections (1) to (3) of KRS 205.175 shall be guilty of a Class A misdemeanor.
- (2) Any person who violates subsection (4) of KRS 205.175 shall be guilty of a Class D felony.
- (3) Any person who willfully violates any of the provisions of KRS 205.310, or any rule or regulation thereunder, shall be guilty of a Class B misdemeanor. Each failure or violation shall constitute a separate offense.
- (4) Any bank, savings and loan association, credit union, or other financial institution which fails to comply with the provisions of subsection (1) of KRS 205.835 or which submits fraudulent information to the cabinet shall be guilty of a Class A misdemeanor.
- (5) Any bank, savings and loan association, credit union, investment company, savings institution, trust company, insurance or annuity company, pension or profit-sharing trust company, or other financial institution failing to comply with provisions of KRS 405.430(11) shall be subject to a penalty of five hundred dollars (\$500) for each failure to comply.
- (6) Any person or financial institution that fails to comply with the provisions of **Section 30 of this Act** ~~[KRS 205.772]~~ or any administrative regulation promulgated under **Section 30 of this Act** ~~[KRS 205.772]~~, within ninety (90) days after notification by the cabinet shall, unless the failure is due to reasonable cause as defined in KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no more than five thousand dollars (\$5,000) for each full month of noncompliance. The fine shall begin on the first day of the month beginning after the expiration of the ninety (90) days.

➔Section 84. KRS 70.325 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, for any constable or deputy constable taking office after January 1, 2023, who was not a constable or deputy constable in the preceding four (4) year term of office, the powers and duties of the office of constable shall not include the general powers of a peace officer or police officer. The powers and duties of the office of constable shall include:
 - (a) The specific powers and duties enumerated in this chapter;
 - (b) The power to distrain for his or her fees or for that of other officers as provided in KRS 64.400;
 - (c) The power to take necessary steps to stop, prevent, or bring under control any dog found chasing or molesting wild elk or deer at any time as provided in KRS 150.390;
 - (d) The power, in a county containing a city of the first class, to serve all forms of legal process in any child support action as provided in **Section 36 of this Act**~~[KRS 205.782]~~;
 - (e) The power to sell property to satisfy a lien created by a taker-up of boats, rafts, platforms, or timber as provided in KRS 364.020;
 - (f) The power to serve a warrant to levy and seize upon the baggage and other personal property of a guest for unpaid services to the keeper of a hotel, inn, boarding house, or house of private entertainment as provided in KRS 376.350;
 - (g) The power to enforce a lien for the care of livestock as provided in KRS 376.410;
 - (h) The power to execute a warrant in actions regarding forcible entry or detainers as provided in KRS 383.210 and 383.245;
 - (i) The power to serve subpoenas issued by the Parole Board as provided in KRS 439.390; and
 - (j) The power to take up vagrants, kill mad dogs, kill and bury a distempered horse, ass, or mule, kill and bury cattle, and alter a stud, jackass, or bull as provided in KRS 64.190.
- (2) After January 1, 2023, no constable who is elected for the first time or a deputy constable appointed pursuant to KRS 70.320 shall be granted the powers generally applicable to peace officers and police officers unless the individual has been certified and maintains his or her certification pursuant to KRS 15.380.

➔Section 85. KRS 205.992 is amended to read as follows:

Any person violating the provisions of **Section 37 of this Act**~~[KRS 205.785]~~ shall be fined not more than five hundred dollars (\$500) or be imprisoned in the county jail for not more than one (1) year, or both.

➔SECTION 86. A NEW SECTION OF KRS CHAPTER 43 IS CREATED TO READ AS FOLLOWS:

The Commonwealth Office of the Ombudsman is hereby created and is an independent office that shall be administratively attached to the Auditor of Public Accounts. The Auditor shall appoint an executive director of the Commonwealth Office of the Ombudsman. The Commonwealth Office of the Ombudsman shall:

- (1) ***Investigate, upon complaint or on its own initiative, any administrative act of an organizational unit, employee, or contractor of the Cabinet for Health and Family Services without regard to the finality of the administrative act. Organizational units, employees, or contractors of the Cabinet for Health and Family Services shall not willfully obstruct an investigation, restrict access to records or personnel, or retaliate against a complainant or cabinet employee;***
- (2) ***Make recommendations that resolve citizen complaints about the Cabinet for Health and Family Services and improve the cabinet's performance and may require corrective action when policy violations are identified;***
- (3) ***Provide evaluation and information analysis of the Cabinet for Health and Family Service's performance and compliance with state and federal law;***
- (4) ***Place an emphasis on research and best practices, program accountability, quality service delivery, and improved performance of the Cabinet for Health and Family Services;***
- (5) ***Provide information on how to contact the office for public posting at all offices where Department for Community Based Services of the Cabinet for Health and Family Services employees or contractors work, at any facility where a child in the custody of the cabinet resides, and to all cabinet or contracted foster parents;***

- (6) ***Report to the Cabinet for Health and Family Services, Office of Inspector General for review and investigation:***
- (a) ***Any charge or case against an employee of the Cabinet for Health and Family Services where it has cause to believe the employee has engaged in dishonest, unethical, or illegal conduct or practices related to his or her job duties; or***
- (b) ***A violation of state law or administrative regulation by any organization or individual regulated by or contracted with the cabinet;***
- (7) ***Compile a report of all citizen complaints about programs or services of the Cabinet for Health and Family Services and a summary of resolution of the complaints and submit the report upon request to the Interim Joint Committee on Health, Welfare, and Family Services; and***
- (8) ***Provide information to the Office of the Attorney General, when requested, related to substantiated violations of state law against an employee or contractor of the Cabinet for Health and Family Services or a foster or adoptive parent.***

➔ Section 87. KRS 209.005 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall create an Elder Abuse Committee to develop a model protocol on elder abuse and neglect in the Commonwealth, that shall be comprised of various agency representatives that include but are not limited to:
- (a) The Department for Community Based Services;
- (b) The Department for Public Health;
- (c) The Department for Behavioral Health, Developmental and Intellectual Disabilities;
- (d) The Department for Aging and Independent Living;
- (e) The Office of Inspector General's Division of Health Care;
- (f) The ***Commonwealth*** Office of the Ombudsman;
- (g) Area Agencies on Aging;
- (h) Local and state law enforcement official; and
- (i) Prosecutors.
- (2) The committee shall address issues of prevention, intervention, investigation, and agency coordination of services on a state and local level through interaction with local groups or entities that either directly or indirectly provide services to the elder population, including but not limited to:
- (a) Senior citizen centers;
- (b) Local governmental human service groups;
- (c) The Sanders-Brown Center on Aging at the University of Kentucky;
- (d) Long-Term Care Ombudsmen; and
- (e) Other organizations or associations dedicated to serving elder citizens and their families in the Commonwealth.
- (3) The committee shall:
- (a) Recommend a model protocol for the joint multidisciplinary investigation of reports of suspected abuse, neglect, or exploitation of the elderly;
- (b) Recommend practices to assure timely reporting of referrals of abuse, neglect, or exploitation required under KRS 209.030(12);
- (c) Explore the need for a comprehensive statewide resource directory of services for the elderly;
- (d) Enhance existing public awareness campaigns for elder abuse and neglect; and
- (e) Provide forums for the exchange of information to educate the elder population and their families on the rights of elders.

- (4) The committee shall produce an annual report of their activities, products, and recommendations for public policy to the Governor and the Legislative Research Commission.

➔Section 88. KRS 212.230 is amended to read as follows:

- (1) County, city-county, and district boards of health shall:
- (a) Appoint a health officer and fix his salary subject to the approval of the Cabinet for Health and Family Services;
 - (b) Hold a regular meeting at least once every three (3) months, except that county or city-county boards whose counties are members of a district health department shall hold a regular meeting at least once every twelve (12) months, and other special or regular meetings as desired and keep full minutes of all the proceedings in a book provided for this purpose;
 - (c) Adopt, except as otherwise provided by law, administrative regulations not in conflict with the administrative regulations of the Cabinet for Health and Family Services necessary to protect the health of the people or to effectuate the purposes of this chapter or any other law relating to public health;
 - (d) Act in a general advisory capacity to the health officer on all matters relating to the local department of health;
 - (e) Provide information regarding the *Commonwealth Office of the ~~cabinet's~~* Ombudsman to all applicants;
 - (f) Hear and decide appeals from rulings, decisions, and actions of the local health department or health officer, in accordance with KRS Chapter 13B, if the aggrieved party makes written request therefor to the board within thirty (30) days after the ruling, decision, or action complained of. In hearing appeals regarding on-site wastewater permitting, the local health board shall utilize the expertise of the regional on-site wastewater consultants employed by the Department for Public Health;
 - (g) Provide all information on on-site wastewater systems to the cabinet for incorporation into the statewide database as provided for in KRS 211.350(1); and
 - (h) Perform all other functions necessary to carry out the provisions of law and the regulations adopted pursuant thereto, relating to local boards of health; and
- (2) Except as otherwise provided in subsection (1), all powers and authority of the local board of health under existing statutes are transferred to the county department of health.

➔Section 89. KRS 224.46-335 is amended to read as follows:

- (1) The cabinet shall establish by administrative regulation an environmental leadership program for those facilities meeting the pollution prevention goal established in KRS 224.46-305. The program shall provide incentives to acknowledge the environmental leadership of those facilities. The program may include provisions to address:
- (a) Public recognition of a facility for meeting "state of the art" standards for environmental leadership;
 - (b) Accelerated review of a facility's applications for permits, permit renewals, and permit modifications;
 - (c) "Green product" labeling for products produced by a facility;
 - (d) Compliance credit given in later enforcement action taken against a facility;
 - (e) Reduced frequency of monitoring or reporting by a facility;
 - (f) Consolidation of requirements into one (1) permit;
 - (g) Reduction or elimination of fees paid to the cabinet for permits, releases of toxic chemicals, or generation of hazardous waste;
 - (h) Access to the *Commonwealth Office of the ~~cabinet~~* Ombudsman who will assist in cutting red tape; and
 - (i) Offset of voluntary actions against future regulatory requirements.
- (2) The administrative regulations shall not violate a statutory or regulatory requirement or impair the cabinet's ability to administer a federally-delegated or federally-funded program.

➔Section 90. 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.
 - (a) ***Commonwealth Office of the Ombudsman.***

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) 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) 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.
 - 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.
- (4) 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.

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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) Cabinet for Economic Development:
- (a) Office of the Secretary.
1. Office of Legal Services.
 2. Department for Business Development.
 3. Department for Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Finance and Personnel Division.
 - c. IT and Resource Management Division.
 - d. Compliance Division.
 - e. Incentive Administration Division.
 - f. Bluegrass State Skills Corporation.
 4. Office of Marketing and Public Affairs.
 - a. Communications Division.
 - b. Graphics Design Division.
 5. Office of Workforce, Community Development, and Research.
 6. Office of Entrepreneurship and Small Business Innovation.
 - a. Commission on Small Business Innovation and Advocacy.
- (6) Cabinet for Health and Family Services:
- (a) Office of the Secretary.
1. ~~Office of the Ombudsman and Administrative Review.~~
 2. ~~—~~Office of Public Affairs.
 - 2.~~3.~~ Office of Legal Services.
 - 3.~~4.~~ Office of Inspector General.
 - 4.~~5.~~ Office of Human Resource Management.
 - 5.~~6.~~ Office of Finance and Budget.
 - 6.~~7.~~ Office of Legislative and Regulatory Affairs.
 - 7.~~8.~~ Office of Administrative Services.
 - 8.~~9.~~ Office of Application Technology Services.

~~9.10.~~ Office of Data Analytics.

- (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.]~~
- (7) 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.
 - (x) Office of Fleet Management.
- (8) 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 Purchasing.
 - 5. Division of Facilities.
 - 6. Division of Park Operations.
 - 7. Division of Sales, Marketing, and Customer Service.
 - 8. Division of Engagement.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
- (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) 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.

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- 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.
 - f. Employment First Council.
 - 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.
- (x) ***Disability Determination Services Program.***
- 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 91. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary. Within the Office of the Secretary, there shall be an ~~Office of the Ombudsman and Administrative Review, an~~ Office of Legal Services, an Office of Inspector General, an Office of Public Affairs, an Office of Human Resource Management, an Office of Finance and Budget, an Office of Legislative

and Regulatory Affairs, an Office of Administrative Services, an Office of Application Technology Services and an Office of Data Analytics, as follows:

- (a) ~~The Office of the Ombudsman and Administrative Review shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and shall:~~
- ~~1. Investigate, upon complaint or on its own initiative, any administrative act of an organizational unit, employee, or contractor of the cabinet, without regard to the finality of the administrative act. Organizational units, employees, or contractors of the cabinet shall not willfully obstruct an investigation, restrict access to records or personnel, or retaliate against a complainant or cabinet employee;~~
 - ~~2. Make recommendations that resolve citizen complaints and improve governmental performance and may require corrective action when policy violations are identified;~~
 - ~~3. Provide evaluation and information analysis of cabinet performance and compliance with state and federal law;~~
 - ~~4. Place an emphasis on research and best practices, program accountability, quality service delivery, and improved governmental performance;~~
 - ~~5. Provide information on how to contact the office for public posting at all offices where Department for Community Based Services employees or contractors work, at any facility where a child in the custody of the cabinet resides, and to all cabinet or contracted foster parents;~~
 - ~~6. Report to the Office of Inspector General for review and investigation any charge or case against an employee of the Cabinet for Health and Family Services where it has cause to believe the employee has engaged in dishonest, unethical, or illegal conduct or practices related to his or her job duties; or any violation of state law or administrative regulation by any organization or individual regulated by, or contracted with the cabinet;~~
 - ~~7. Compile a report of all citizen complaints about programs or services of the cabinet and a summary of resolution of the complaints and submit the report upon request to the Interim Joint Committee on Health and Welfare and Family Services;~~
 - ~~8. Include oversight of administrative hearings; and~~
 - ~~9. Provide information to the Office of the Attorney General, when requested, related to substantiated violations of state law against an employee, a contractor of the cabinet, or a foster or adoptive parent;~~
- (b) ~~The Office of Legal Services shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105;~~
- (b)~~(c)~~ The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary. The Office of Inspector General shall be responsible for:
1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
 2. Licensing and regulatory functions as the secretary may delegate;
 3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.1911 to 311.1959, 311.1961, and 311.1963;
 4. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeals functions, pursuant to KRS Chapter 216B;

5. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority;
 6. The oversight of the operations of the Kentucky Health Information Exchange; and
 7. The support and guidance to health care providers related to telehealth services, including the development of policy, standards, resources, and education to expand telehealth services across the Commonwealth;
- (c)~~(d)~~ The Office of Public Affairs shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide information to the public and news media about the programs, services, and initiatives of the cabinet;
- (d)~~(e)~~ The Office of Human Resource Management shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall coordinate, oversee, and execute all personnel, training, and management functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality improvement services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions;
- (e)~~(f)~~ The Office of Finance and Budget shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide central review and oversight of budget, contract, and cabinet finances. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary;
- (f)~~(g)~~ The Office of Legislative and Regulatory Affairs shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide central review and oversight of legislation, policy, and administrative regulations. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary;
- (g)~~(h)~~ The Office of Administrative Services shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide central review and oversight of procurement, general accounting including grant monitoring, and facility management. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary;
- (h)~~(i)~~ The Office of Application Technology Services shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The office shall provide application technology services including central review and oversight. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary; and
- (i)~~(j)~~ The Office of Data Analytics shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and shall identify and innovate strategic initiatives to inform public policy initiatives and provide opportunities for improved health outcomes for all Kentuckians through data analytics. The office shall provide leadership in the redesign of the health care delivery system using electronic information technology to improve patient care and reduce medical errors and duplicative services;
- (2) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
 - (3) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. This shall include

but not be limited to oversight of the Division of Women's Health *and the Office for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the Department for Public Health. The Department for Public Health shall advocate for the rights of children with disabilities and, to the extent that funds are available, shall ensure the administration of services for children with disabilities as are deemed appropriate by this office pursuant to Title V of the Social Security Act. The Department for Public Health may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The Office for Children with Special Health Care Needs may be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.* The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

- (4) Department for Behavioral Health, Developmental and Intellectual Disabilities. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall develop and administer programs for the prevention of mental illness, intellectual disabilities, brain injury, developmental disabilities, and substance use disorders and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, or who have an intellectual disability, brain injury, developmental disability, or a substance use disorder. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall be headed by a commissioner for behavioral health, developmental and intellectual disabilities who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for behavioral health, developmental and intellectual disabilities shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for behavioral health, developmental and intellectual disabilities shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;
- (5) ~~{Office for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the office. The office shall advocate the rights of children with disabilities and, to the extent that funds are available, shall ensure the administration of services for children with disabilities as are deemed appropriate by this office pursuant to Title V of the Social Security Act. The office may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Office for Children with Special Health Care Needs shall be performed through the office of the executive director. The executive director shall be appointed by the secretary with the approval of the Governor under KRS 12.050;~~
- ~~(6)~~ Department for Family Resource Centers and Volunteer Services. The Department for Family Resource Centers and Volunteer Services shall streamline the various responsibilities associated with the human services programs for which the cabinet is responsible. This shall include, but not be limited to, oversight of the Division of Family Resource and Youth Services Centers and Serve Kentucky. The Department for Family Resource Centers and Volunteer Services shall be headed by a commissioner who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for family resource centers and volunteer services shall be by training and experience in administration and management qualified to perform the duties of the office, shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;
- ~~(6)~~~~(7)~~ Department for Community Based Services. The Department for Community Based Services shall administer and be responsible for child and adult protection, *guardianship services*, violence prevention resources, foster care and adoption, permanency, and services to enhance family self-sufficiency, including child care, social services, public assistance, and family support. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; *and*
- ~~(7)~~~~(8)~~ Department for Income Support. The Department for Income Support shall be responsible for child support enforcement and disability determination. The department shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, and shall have responsibility for determining eligibility for disability

~~for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and~~

- ~~(9)~~ Department for Aging and Independent Living. The Department for Aging and Independent Living shall serve as the state unit as designated by the Administration on Aging Services under the Older Americans Act and shall have responsibility for administration of the federal community support services, in-home services, meals, family and caregiver support services, elder rights and legal assistance, senior community services employment program, the state health insurance assistance program, state home and community based services including home care, Alzheimer's respite services and the personal care attendant program, certifications of assisted living facilities, *and* the state Council on Alzheimer's Disease and other related disorders, ~~and guardianship services~~. The department shall also administer the Long-Term Care Ombudsman Program and the Medicaid Home and Community Based Waivers Participant Directed Services Option (PDS) Program. The department shall serve as the information and assistance center for aging and disability services and administer multiple federal grants and other state initiatives. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.

➔Section 92. KRS 43.030 is amended to read as follows:

- (1) The Auditor shall appoint for the duration of his or her own term, subject to removal by the Auditor at any time, one (1) assistant auditor of public accounts, who shall be a certified public accountant and who has been a citizen and resident of the state for at least two (2) years. *Except for the Office of the Ombudsman as established in Section 86 of this Act*, the assistant auditor shall have direct supervision over all technical work and technical assistants, and shall otherwise aid the Auditor in the performance of his or her duties, except that the assistant auditor of public accounts may exercise a full or partial recusal from this supervision requirement in regard to the consulting function authorized in KRS 43.050 if needed to comply with the professional standards of accountancy. If the Auditor is absent or is rendered incapable of performing his or her duties, or if a vacancy in the office occurs, the assistant auditor shall perform the duties of Auditor until the necessity therefor ceases to exist. He or she shall take the constitutional oath.
- (2) The Auditor may employ other subordinate personnel subject to the provisions of KRS 12.060. All employees with status as defined in KRS 18A.005 who are engaged in auditing or investigations shall possess a minimum of a four (4) year college degree. No less than ninety percent (90%) of all employees engaged in financial auditing or financial investigations shall have twenty (20) semester hours or thirty (30) quarter hours of accounting, or alternately, shall be a certified public accountant. Not more than two (2) persons charged with the conduct of audits and investigations may substitute year-for-year responsible experience acceptable to the Personnel Cabinet for the required college education and accounting hours.
- (3) The Auditor and his or her sureties are liable on his or her official bond for the acts of the assistant auditor and clerks.
- (4) Nothing in this section shall be deemed to affect the provisions of KRS 11.090 or other legislation authorizing audits.

➔Section 93. The General Assembly hereby directs the Cabinet for Health and Family Services Organizational Structure, Operations, and Administration Task Force to continue through the 2023 Interim subject to approval by the Legislative Research Commission.

➔Section 94. The Department for Medicaid Services, Department for Aging and Independent Living, and Department for Behavioral Health, Developmental and Intellectual Disabilities shall identify and eliminate redundancies and barriers to administering 1915(c) Medicaid waiver programs and issue a report containing its findings, recommendations, and action plan to the Legislative Research Commission by December 1, 2023.

➔Section 95. The Office of Human Resource Management and the Personnel Cabinet shall identify the systemic barriers and redundancies that are prohibiting an effective and timely hiring and onboarding process for prospective employees. The Cabinet for Health and Family Services shall issue a report containing its findings, recommendations, and action plan to the Legislative Research Commission by December 1, 2023.

➔Section 96. The Disability Determination Services Program is currently within the Department for Income Support, Cabinet for Health and Family Services. It shall be moved to the Education and Labor Cabinet. The Education and Labor Cabinet and the Cabinet for Health and Family Services shall inform the General Assembly by December 1, 2023, of any necessary legislative action that shall be taken to ensure the Education and Labor Cabinet has statutory authority over the Disability Determination Services Program.

➔Section 97. The Department for Aging and Independent Living administers the Division of Adult Guardianship. The Division of Adult Guardianship shall be moved from the Department for Aging and Independent Living and placed in, and administered by, the Department for Community Based Services.

➔Section 98. The Office of the Attorney General and the Cabinet for Health and Family Services shall issue a report no later than November 1, 2024, to the Interim Joint Committee on Health, Welfare, and Family Services of the progress of the transition plan moving the Child Support Enforcement program from the Cabinet for Health and Family Services to the Office of the Attorney General.

➔Section 99. The Education and Labor Cabinet and the Cabinet for Health and Family Services shall issue a report no later than December 31, 2023, to the Interim Joint Committee on Health, Welfare, and Family Services of the transition plan moving the Disability Determination Services program from the Cabinet for Health and Family Services to the Education and Labor Cabinet.

➔Section 100. All programmatic staff, personnel, records, files, equipment, resources, funding, and administrative functions of the child support enforcement program, currently, within the Cabinet for Health and Family Services, shall be transferred to the Office of the Attorney General on July 1, 2025.

➔Section 101. All programmatic staff, personnel, records, files, equipment, resources, funding, and administrative functions of the Disability Determination Services Program within the Cabinet for Health and Family Services, shall be transferred to the Education and Labor Cabinet on July 1, 2024.

➔Section 102. All programmatic staff, personnel, records, files, equipment, resources, funding, and administrative functions of the Office of the Ombudsman and Administrative review shall be transferred to the Commonwealth Office of the Ombudsman as it relates to the duties and responsibilities prescribed in Section 86 of this Act and all programmatic staff, resources, funding, and administrative functions of the Office of the Ombudsman and Administrative review shall be transferred to the Office of the Attorney General as it relates to the duties and responsibilities prescribed in Section 90 of this Act on July 1, 2024.

➔Section 103. In the event the Legislative Research Commission dissolves the Interim Joint Committee on Health, Welfare, and Family Services and establishes another interim joint committee or multiple interim joint committees with jurisdiction over health services or families and children, the reports required in Sections 86, 95, 98, and 99 of this Act shall be submitted to that interim joint committee.

➔Section 104. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

➔Section 105. Sections 1, 2, 4, 5, 7, 68 to 70, 86 to 89, and 92 shall go into effect July 1, 2024.

➔Section 106. Sections 3, 6, 8 to 67, 71 to 85, 90, and 91 shall go into effect July 1, 2025.

Became law without Governor's signature March 29, 2023.

CHAPTER 125

(HB 39)

AN ACT relating to the Kentucky Horse Park.

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

➔Section 1. KRS 148.258 is amended to read as follows:

As used in KRS ~~148.258~~[148.260] to 148.320: ~~[the term]~~

- (1) "Commission" ~~means~~[shall mean] the "Kentucky Horse Park Commission" unless the context clearly indicates otherwise;
- (2) "*Emergency*" means an incident or situation which impedes the operations of the Kentucky Horse Park, or poses a major threat to the public safety of any guest, employee, or equine population of the Kentucky Horse Park; and

- (3) ***"Solely for administrative purposes" means for those limited functions and purposes expressly requested by the commission to be performed by the Tourism, Arts and Heritage Cabinet. The commission shall have sole discretion as to which functions shall be deemed necessary for the efficient operation of the Kentucky Horse Park.***

➔Section 2. KRS 148.260 is amended to read as follows:

- (1) There is hereby created and established an agency of state government to be known as the Kentucky Horse Park Commission, which shall constitute a separate administrative body of state government within the meaning of KRS 12.010(8) and under the provisions of KRS 12.015 shall be attached to the Tourism, Arts and Heritage Cabinet ***solely*** for administrative purposes.
- (2) The commission shall be composed of the following ***eighteen (18)***~~fifteen (15)~~ members:
- (a) ***The secretary of the Tourism, Arts and Heritage Cabinet or designee;***
 - (b) ***The secretary of the Finance and Administration Cabinet or designee;***
 - (c) ***The Commissioner of Agriculture or designee;***
 - (d) ***The mayor of Lexington or designee;***
 - (e) ***The Scott County judge/executive or designee;***
 - (f) ***The dean of the University of Kentucky College of Agriculture, Food and Environment or designee; and***
 - (g) ***Twelve (12)***~~Thirteen (13)~~ members appointed by the Governor who possess the ability to provide broad management expertise and direction in the operation of the Kentucky Horse Park and, to the extent possible, represent the diverse interests of the Kentucky horse industry, four (4) or more of whom represent the equine industry and four (4) or more of whom are active in industry, tourism, or commerce. The members of the commission appointed under this paragraph shall serve ***no more than three (3) consecutive***~~for a term of~~ four (4) ***year terms.***~~[years, except that initial appointments shall be as follows:~~
 1. ~~Four (4) members shall serve for a term of two (2) years;~~
 2. ~~Five (5) members shall serve for a term of three (3) years; and~~
 3. ~~Four (4) members shall serve for a term of four (4) years; and]~~
- (3) ***Members serving under subsection (2)(a) to (f) of this section***~~[(b) The secretary of the Cabinet for Economic Development and the secretary of the Tourism, Arts and Heritage Cabinet, who]~~ shall serve as ex officio members with full voting rights, ***except as provided in subsection (4) of this section.***
- (4)~~(3)~~ The Governor shall designate one (1) member of the commission to serve as chairperson and one (1) member of the commission to serve as vice chairperson, both of whom shall serve at the pleasure of the Governor. ***The chairperson shall generally serve as a nonvoting member, but shall vote when there is a tie among the other members.*** The vice chairperson shall preside over meetings in the absence of the chairperson, ***and shall retain the right to vote unless serving in the capacity of chairperson.***
- (5) ***If a vacancy occurs on the commission, the unexpired term shall be filled pursuant to the requirements and procedures for the original appointment.***
- (6)~~(4)~~ The commission shall meet quarterly, and the chairperson shall preside over the meetings. The chairperson may call special meetings of the commission upon a request of the majority of the members of the commission, or upon request of the Governor.
- (7)~~(5)~~ Members shall be reimbursed only for expenses incurred in the discharge of official business, subject to regulations established by the Finance and Administration Cabinet. All expenses reimbursed to members shall be paid from operating funds of the Kentucky Horse Park.
- (8)~~(6)~~ The commission shall establish and maintain an office at the Kentucky ~~[State]~~ Horse Park for the transaction of its business and shall not establish any branch office. The commission may hold meetings at any other place when the convenience of the commission requires.
- (9)~~(7)~~ The commission shall be authorized to adopt bylaws providing for the call of its meetings, which shall be held at least quarterly, and for its operating procedures. A quorum of the commission shall consist of ***ten***

(10)~~eight (8)~~ members, and a quorum of members present at any duly-called meeting may act upon any matter before it for consideration. Each member shall have one (1) vote.

(10)~~(8)~~ The Governor may establish an advisory committee to advise in the administration, development, and operation of the Kentucky Horse Park or other functions, activities, and programs provided for or authorized by KRS ~~148.258~~~~[148.260]~~ to 148.320.

➔Section 3. KRS 148.270 is amended to read as follows:

- (1) (a) The commission shall be a body corporate with usual corporate powers.
- (b) *The General Assembly hereby recognizes and reaffirms that the operations of the Kentucky Horse Park and the operations of its facilities are unique activities for state government and that an independent corporate structure is best to enable the Kentucky Horse Park to be managed in an entrepreneurial and businesslike manner. The Kentucky Horse Park Commission shall be an independent, de jure municipal corporation and political subdivision of the Commonwealth of Kentucky, which shall be a public body corporate and politic.*
- (c) *The Kentucky Horse Park Commission is a public agency as defined in KRS 61.805 and is subject to the Open Meetings Act, KRS 61.805 to 61.850.*
- (d) *The Kentucky Horse Park Commission shall be attached to the Tourism, Arts and Heritage Cabinet solely for administrative purposes and shall not be subject to reorganization under KRS Chapter 12.*
- (2) Full minutes and records shall be kept of all meetings of the board and all official actions shall be recorded.
- (3) (a)~~(2)~~ The commission shall appoint *a president*~~[an executive director]~~, who shall hold *the position at the pleasure of the commission*~~[office during its pleasure]~~ and shall devote his *or her* entire time to the duties of *the*~~[his]~~ office.
- (b) The *president*~~[executive director]~~ shall be the chief *executive*~~[administrative]~~ officer and secretary of the commission and shall provide the staff direction and coordination in implementing the program and discharging the duties of the commission. The *president*~~[executive director]~~ shall serve as the administrative head of the Kentucky ~~[State]~~ Horse Park, thereby overseeing daily operations of the park.
- (c) The *president*~~[secretary]~~ shall keep a full and true record of all the proceedings of the commission, of all books and papers ordered filed by the commission, and of all orders made by the commission or approved and confirmed by it and ordered filed, and shall be responsible to it for the safe custody and preservation of all such documents in its office. All documents shall be subject to the open records provisions of KRS 61.870 to 61.884.
- (d) The commission shall designate from time to time staff persons to perform the duties of the *president*~~[executive director]~~ during his *or her* absence, and during the absence, the persons so designated shall possess the same powers as *the president*~~[their principal]~~.
- (4) *The president may only be removed by an affirmative vote of a majority of the members of the commission, and upon thirty (30) days' written notice.*
- (5) *The commission shall determine the term, conditions, and compensation of its president, provided the term does not exceed four (4) years. There is no limit on the number of terms an individual can serve as president.*
- (6) (a) *The president shall have the authority to organize administrative divisions and may designate chiefs of the divisions who, under the control and supervision of the president, shall have the duties of direction of the divisions.*
- (b) *The president shall organize a Division of Personnel Management and Staff Development that shall manage all personnel matters, including staff development and training programs for affirmative action. The director of this division shall be appointed by the president, and the appointment shall be subject to confirmation by the commission.*
- (c) *The president shall employ other employees and agents necessary to carry out the policies of the commission and to conduct the affairs of the Kentucky Horse Park, and shall fix the duties and compensation of any employees or agents with the approval of the commission.*

(7) *The president and any persons newly employed under this section after July 1, 2023, shall not be subject to KRS Chapter 18A.*

(8)(3) The commission acting through the ~~president~~~~executive director~~ may employ such additional staff as necessary to perform the duties and exercise the powers conferred upon it by the provisions of KRS ~~148.258~~~~148.260~~ to 148.320.

➔Section 4. KRS 148.280 is amended to read as follows:

(1) The commission:

- (a) Shall have the authority and control of such property as now is under its custody and control, and of such property as may hereafter be placed under its control or transferred to it by the State Property and Buildings Commission, for any purpose mentioned in this section;
- (b) May erect and repair buildings on the ~~Kentucky~~~~State~~ Horse Park and make any and all necessary or proper improvements, and generally carry on a program of development and extension of facilities designed to accomplish the objectives defined in this section; *and*
- (c) Shall promote the progress of the state and stimulate public interest in the advancement and development of the state by providing the facilities of the ~~Kentucky~~~~State~~ Horse Park for exhibitionary, competitive, and other events relative to various aspects of the horse industry and other functions calculated to advance and enhance the tourist industry, economy, entertainment, cultural, and educational interests of the public.

(2) The commission may take, acquire, and hold property, and all interest herein, by deed, gift, devise, bequest, lease, or by transfer from the state property so acquired in the manner provided by law, *and may dispose of any property so acquired in the manner provided by law.*

(3) The commission may ~~promulgate~~~~enact by~~ administrative ~~regulations~~~~regulation as provided~~ in *accordance with* KRS Chapter 13A *to govern*~~rules governing~~ the operation, maintenance, or use of property under its custody and control, *as are necessary to:*

- (a) *Maintain decency and good order;*
- (b) *Protect the peace or safety of the general public;*
- (c) *Protect the public interest, convenience, or necessity; and*
- (d) *Govern the operation, maintenance, or use of the Kentucky Horse Park.*

(4) The commission may:

- (a) Employ or contract with other persons, firms, or corporations the commission may deem necessary or desirable to accomplish its duties and functions; may fix the compensation and the terms of employment or contract of those employed or contracted with; and may assign to them duties and responsibilities the commission may determine, including the responsibility of actual operation of any or all of the facilities under the control of the commission;
- (b) *Purchase liability insurance for the members and executive officers exempted from the classified service of the state by KRS 18A.115; and*
- (c) *Operate shows and expositions that support the purpose and function of the Kentucky Horse Park.*

➔Section 5. KRS 148.285 is amended to read as follows:

The commission shall:

- (1) Formulate policies and procedures as necessary to carry out the provisions of KRS ~~148.258~~~~148.260~~ to 148.320;
- (2) Promulgate ~~administrative~~~~rules and~~ regulations as necessary to carry out the provisions of KRS ~~148.258~~~~148.260~~ to 148.320;
- (3) Annually provide the *Interim Joint Committee on Tourism, Small Business, and Information Technology*~~Governor~~ a report by *November 1*~~January 30~~ and ~~provide the General Assembly a report by January 30~~ showing the status of the horse industry within the Commonwealth and recommend any action necessary to preserve and strengthen that industry; and

- (4) Employ staff personnel, if any, as it may deem necessary to implement the business of the commission and the intent of KRS ~~148.258~~~~[148.260]~~ to 148.320. The commission shall fix the compensation of such employees and any employee of the commission shall be reimbursed for expenses paid or incurred in the discharge of official business when approved by the commission.

➔Section 6. KRS 148.290 is amended to read as follows:

- (1) The commission may enter into agreements with the law enforcement agency of any urban-county or counties in which the ~~Kentucky~~~~[State]~~ Horse Park is located or in any adjacent county or with the Department of Kentucky State Police for proper policing of the ~~Kentucky~~~~[State]~~ Horse Park. If authorized to do so by the commission and subject to KRS 61.300, the ~~president~~~~[executive director]~~ may commission employees of the park as patrol officers. These patrol officers shall have all the powers of peace officers upon the property of the ~~Kentucky~~~~[State]~~ Horse Park and the public property and roads traversing or immediately adjacent thereto.
- (2) The commission is authorized to establish by resolution speed limits governing the operation of motor vehicles on horse park property. Notice to the public of such speed limits shall be posted by signs or markings.
- (3) The commission may by administrative regulation establish restrictions on the use, including the operation, parking, impoundment, and removal, of golf cart-type vehicles, all-terrain vehicles as defined by KRS 189.010(24), horse trailers, and automobiles operated on ~~Kentucky~~~~[State]~~ Horse Park property. The commission may prohibit the use of all-terrain vehicles on ~~Kentucky~~~~[State]~~ Horse Park property.
- (4) The commission may by administrative regulation establish a permit system, including a fee schedule, for golf cart-type vehicles, require owners to purchase usage permits, and require that the usage permit be displayed on the vehicle when operated on ~~Kentucky~~~~[State]~~ Horse Park property.
- (5) The commission may by administrative regulation establish a trailer permit system, including a fee schedule, for horse owners participating in events but not renting stalls at the ~~Kentucky~~~~[State]~~ Horse Park.

➔Section 7. KRS 148.320 is amended to read as follows:

- (1) *(a)* All revenues derived by the commission from the use of properties and facilities under its custody and control shall be used exclusively for the purpose of defraying the expenses of the commission, the cost of the management and operation of such properties and facilities, the payment of interest and principal upon any indebtedness incurred by the commission for such properties and facilities, the creation of adequate reserves for the repair and replacement thereof and for the financing of further extensions, improvements, and additions thereto. Included in the cost of operation may be such promotional activities as the commission may determine upon as calculated to stimulate and increase the use and the revenues of such facilities, and to increase and stimulate the interest and usefulness of the ~~Kentucky~~~~[State]~~ Horse Park.
- (b)* **Any surplus revenues remaining after full provision for the purposes in paragraph (a) of this subsection shall:**
 1. **Be used to reduce the admission fees to the public for admittance to the Kentucky Horse Park and for public use by the citizens of the Commonwealth of the facilities, or reduce the annual appropriation by the General Assembly to the Kentucky Horse Park; and**
 2. **Not be appropriated to any other agency or function.**
- (2) The commission shall generally cause its funds to be deposited in the State Treasurer's office to be withdrawn on appropriate vouchers approved by the commission.
- (3) An annual accounting of the funds of the commission shall be made by the Auditor of Public Accounts and reported to the Governor for the benefit of the Governor and the General Assembly.
- (4) **The commission may receive tax revenues from any governmental unit and financial contributions from local governments, private persons, or foundations.**
- (5) **The president of the Kentucky Horse Park may, in lieu of the secretary of the Finance and Administration Cabinet, declare an emergency for purchasing purposes.**

➔Section 8. KRS 45A.095 is amended to read as follows:

- (1) For purposes of this section:
 - (a) "Emergency condition" means a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man-caused

disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person; and

- (b) "Sole source" means a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions.
- (2) A contract may be made by noncompetitive negotiation only:
- (a) For sole source purchases;
 - (b) When competition is not feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A;
 - (c) When emergency conditions exist; or
 - (d) For sponsorships, naming rights, or other advertising or similar considerations for which competition is not feasible.
- (3) Insofar as it is practical, no fewer than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record.
- (4) Competitive bids may not be required:
- (a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;
 - (b) Where rates are fixed by law or ordinance;
 - (c) For library books;
 - (d) For commercial items that are purchased for resale;
 - (e) For interests in real property;
 - (f) For visiting speakers, professors, expert witnesses, and performing artists;
 - (g) For personal service contracts executed pursuant to KRS 45A.690 to 45A.725;~~and~~
 - (h) For agricultural products in accordance with KRS 45A.645; *and*
 - (i) ***For contracts entered into by the president of the Kentucky Horse Park for emergency purchases pursuant to subsection (5) of Section 7 of this Act.***
- (5) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency condition exists.
- (6) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.
- (7) ***Subsection (6) of this section shall not apply to emergency purchases made pursuant to subsection (5) of Section 7 of this Act.***

Became law without Governor's signature March 29, 2023.

CHAPTER 126

(HB 144)

AN ACT relating to privacy.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section, unless the context otherwise requires:*
- (a) *"Officer" means any local, state, or federal officer who is employed or contracted by a governmental agency in Kentucky and includes:*
 - 1. *Law enforcement officer as defined in KRS 15.310;*
 - 2. *Peace officer as defined in KRS 446.010; and*
 - 3. *Police officer as defined in KRS 15.420;*
 - (b) *"Private open land" means land, including open fields, but excluding any homes or buildings and the curtilage around them, that is owned, leased, used, or lawfully occupied by a person or a nongovernmental entity; and*
 - (c) *"Search warrant" means a warrant that is supported by individualized probable cause and issued by a court of competent jurisdiction.*
- (2) *An officer shall not enter or access private open land for any covert surveillance or installation of surveillance devices without a search warrant unless the officer:*
- (a) *Has received the permission of the property owner, lessee, or lawful occupant;*
 - (b) *Upon probable cause, is responding to an exigent circumstance, including a life-threatening emergency or another immediate threat to public safety that was either reported to or personally observed by the officer;*
 - (c) *Is dispatching crippled, distressed, dangerous, or invasive wildlife that the officer has personally observed; or*
 - (d) *Is unable to reasonably identify the unmarked and unfenced boundaries and ownership of unimproved, uninhabited rural land.*
- (3) (a) *Upon entering private open land, the officer shall immediately notify the landowner, lessee, or lawful occupant, if notice can reasonably be made, unless the officer is in possession of a search warrant allowing surveillance or surveillance-related activities.*
- (b) *If an officer is equipped with a body-worn camera or other audio-visual or audio recording device while entering private open land, the body-worn camera or other audio visual or audio recording device shall be activated and recording in accordance with the standard policy of the officer's agency.*
- (4) *Subsections (2) and (3) of this section do not apply to a conservation officer executing duties described in KRS 150.090, who shall have the authority to enter upon, cross over, be upon, or access private open lands for the purpose of conducting compliance checks or surveillance based upon a reasonable suspicion, and shall not be required to notify the landowner, lessee, or lawful occupant.*

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

Became law without Governor's signature March 29, 2023.

CHAPTER 127

(SB 62)

AN ACT relating to privacy.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

- (1) *"Personal information" means any list, record, registry, roll, roster, or other compilation of data of any kind that directly or indirectly identifies a person as a member, supporter, volunteer, or donor of financial or nonfinancial support to any nonprofit organization;*
- (2) *"Public agency" has the same meaning as in KRS 61.870(1);*
- (3) *"Person" means an individual or entity; and*
- (4) *"Nonprofit organization" means an organization that:*
 - (a) *Is exempt from federal income tax under Section 501(c) of the Internal Revenue Code;*
 - (b) *Has submitted an application with the Internal Revenue Service for recognition of an exemption under Section 501(c) of the Internal Revenue Code; or*
 - (c) *Is a nonprofit corporation incorporated under KRS Chapter 273, an unincorporated nonprofit association under KRS Chapter 273A, or a domestic nonprofit limited liability company under KRS Chapter 275.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any law to the contrary, and subject to the exemptions described in Section 3 of this Act, a public agency shall not:*
 - (a) *Require any individual or nonprofit organization to provide the public agency with personal information or otherwise compel the release of personal information;*
 - (b) *Release, publicize, or otherwise publicly disclose personal information in its possession; or*
 - (c) *Request or require a current or prospective contractor or grantee with the public agency to provide a list of nonprofit organizations to which the current or prospective contractor or grantee has provided financial or nonfinancial support.*
- (2) *Personal information shall be exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 to 61.884.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

- (1) *Sections 1 to 5 of this Act shall not preclude:*
 - (a) *Any report related to campaign financing required by:*
 1. *KRS 121.140;*
 2. *KRS 121.150;*
 3. *KRS 121.160;*
 4. *KRS 121.170;*
 5. *KRS 121.172;*
 6. *KRS 121.180;*
 7. *KRS 121.210; or*
 8. *KRS 121.230;*
 - (b) *A response to any lawful warrant for personal information issued by a court of competent jurisdiction;*

- (c) *A response to a lawful request for discovery of personal information in litigation if the request is reasonably calculated to lead to the discovery of admissible evidence. A party from which the personal information is requested pursuant to this paragraph may seek a protective order from the court barring the requesting party from disclosure of personal information to any person named in the litigation;*
 - (d) *Admission of personal information as relevant evidence before a court of competent jurisdiction. However, no court shall publicly reveal personal information absent a finding of good cause;*
 - (e) *A public agency from releasing personal information that was voluntarily released by the person or the nonprofit organization to the public;*
 - (f) *Collection of information disclosing the identity of any director, officer, registered agent, or incorporator of a nonprofit organization in any report or disclosure required by statute to be filed with the Secretary of State, except that information that directly identifies a person as a donor of financial or in-kind support to a nonprofit organization shall not be collected or disclosed;*
 - (g) *Disclosure of personal information derived from a donation to a nonprofit organization that is affiliated with a public agency and required by statute, including the voluntary submission of personal information from a nonprofit organization to a public agency for verification purposes as a condition of receiving matching grant funding, if the person has not previously requested anonymity from the nonprofit organization;*
 - (h) *Collection of information by the Attorney General via federal Form 990, as required by KRS 367.657, except that information that directly identifies a person as a donor of financial or in-kind support to a nonprofit organization via federal Form 990, Schedule B, or its successor form, shall not be collected or disclosed;*
 - (i) *Collection of information pursuant to a request by the Attorney General for information required for an audit, examination, review, or investigation pursuant to KRS 367.240 or 367.250, provided that such information shall only be used in connection with the specific audit, examination, review, or investigation to which the request relates and for any related proceedings, provided further that any information so collected shall otherwise remain subject to the provisions of Sections 1 to 5 of this Act;*
 - (j) *Any disclosures, reports, or investigations pursuant to KRS 6.601 to 6.849 or KRS Chapter 11A, except that such information shall only be used in connection with the specific disclosures, reports, or investigations and for any related proceedings; or*
 - (k) *Audit, attestation, examination, investigation, or other review work authorized under KRS Chapter 43 or pursuant to the express statutory authority granted to the Office of the Auditor of Public Accounts or performed by a certified public accountant either under contract with the Auditor of Public Accounts or pursuant to an engagement declined by the Auditor of Public Accounts, provided that such information shall only be used in connection with the specific audit, attestation, examination, investigation, or other review work to which the request relates.*
- (2) *Sections 1 to 5 of this Act shall not be construed to apply to a:*
- (a) *Nonprofit organization acting as a community action agency pursuant to KRS 273.410 to 273.453; or*
 - (b) *National securities association that is registered pursuant to Section 15A of the Securities Exchange Act of 1934, 15 U.S.C. sec. 78o-3, as amended, or regulations promulgated thereunder, or any information the national securities association provides to the Department of Financial Institutions pursuant to KRS Chapter 292 and the administrative regulations promulgated thereunder.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

- (1) *A person alleging a violation of Sections 1 to 5 of this Act may bring a civil action for appropriate injunctive relief, damages, or both. Damages awarded under this section may include one (1) of the following, as appropriate:*
- (a) *A sum of money that reflects the actual damages caused by each violation of Sections 1 to 5 of this Act;*
 - (b) *A sum of money not less than two thousand five hundred dollars (\$2,500) to compensate for injury or loss caused by each violation of Sections 1 to 5 of this Act; or*

- (c) *For an intentional violation, a sum of money not to exceed three (3) times the sum described in paragraph (b) of this subsection.*
- (2) *A court, in rendering a judgment in an action brought under Sections 1 to 5 of this Act, may award all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, to the complainant in the action if the court determines that the award is appropriate.*
- (3) *A person who knowingly violates Sections 1 to 5 of this Act is guilty of a Class B misdemeanor under KRS 532.020(3), and may be subject to a fine of not more than one thousand dollars (\$1,000).*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

If any provision of Sections 1 to 5 of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of Sections 1 to 5 of this Act that can be given effect without the invalid provision or application, and to this end the provisions of Sections 1 to 5 of this Act are severable.

➔Section 6. This Act may be cited as the Personal Privacy Protection Act.

Became law without Governor's signature March 29, 2023.

CHAPTER 128

(SB 141)

AN ACT relating to local governments and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS 65.8801 TO 65.8839 IS CREATED TO READ AS FOLLOWS:

- (1) *Any city that establishes an ordinance pursuant to KRS 91A.070(2) may elect to include the amount of any unpaid lien that has been recorded pursuant to KRS 65.8835 on any property tax bill that the city collects.*
- (a) *The amount of the code enforcement lien shall be listed and treated as a separate item on the property tax bill and shall not be considered a part of the ad valorem tax liability.*
- (b) *The late payment or nonpayment of a code enforcement lien listed pursuant to this section shall not be enforced under KRS 91A.070 and shall remain enforceable pursuant to KRS 65.8835 and subsection (2) of this section.*
- (2) *In addition to the enforcement procedures authorized by KRS 65.8835, a city government may elect to use KRS 91.481 to 91.527 to enforce uncollected liens arising pursuant to KRS 65.8835 in the same manner as authorized for unpaid tax bills.*

➔Section 2. KRS 91.481 is amended to read as follows:

As used in KRS 91.484 to 91.527 and 92.810, unless the context otherwise requires:

- (1) "Collector" means any city of the first class *or any city which has adopted the provisions of Section 1 of this Act.*
- (2) "Land taxes" mean general taxes on real property and include the taxes both on land and improvements thereon.
- (3) "Master commissioner" or "circuit clerk" means the master commissioner and the circuit clerk of the judicial district in which any ~~collector~~ *[city of the first class]* is located.
- (4) "Tax bill" means the statement of the land taxes and the lien thereon, levied and assessed by any taxing authority.
- (5) "Tax lien" means the lien of any tax bill established pursuant to KRS 91.560.

➔Section 3. (1) A city that has initiated annexation under KRS Chapter 81A on or after March 1, 2023, but has not completed the annexation prior to the effective date of this Act shall not complete the annexation unless it meets the requirements of subsection (3) of this section in addition to any other statutory requirements for annexation.

(2) On or after the effective date of this Act, and prior to July 1, 2024, a city shall not initiate annexation procedures under KRS Chapter 81A except as set out in subsection (3) of this section and in addition to any other statutory requirements for annexation.

(3) Annexation within the time limits prescribed in subsections (1) and (2) of this section may proceed or be initiated if the city can demonstrate that:

(a) An opportunity for substantial economic development will be impeded if a particular parcel of land is not annexed. Such a demonstration would include the necessity for the extension of city services to a parcel of land necessary for the location of a business or other development that provides evidence that it will not locate in that parcel of land absent services specifically available from the city;

(b) Annexing the parcel of land would directly facilitate the delivery of new or substantially improved services that cannot be provided by the city, or any subunit of the city, absent annexation, or the lack of annexation will result in the substantial loss of services;

(c) A contract let prior to the effective date of this Act would be voided by the moratorium in the case of an annexation underway as described in subsection (1) of this section;

(d) The property owner made a request for the annexation of his or her property, the property is contiguous to the existing city boundary, and the city has provided written notice to the fiscal court wherein the property is located at least 45 days prior to enacting a final ordinance annexing the property;

(e) The city has received concurrence for the annexation from the fiscal court; or

(f) The provisions of this section would void, alter, or otherwise impede the continuation of any provision of an agreement executed by a county and one or more cities under the provisions of KRS 65.210 to 65.300 involving an occupational license fee or insurance premium tax.

(4) In addition to any persons with standing otherwise provided by statute or under common law, the county government containing the city asserting that an annexation completed within the time limits prescribed in subsections (1) and (2) of this section was completed without meeting the demonstrated necessities or exceptions as set out in subsection (3) of this section shall have standing to challenge the annexation in the Circuit Court of jurisdiction, provided that the action is initiated no later than 45 days following the date of the publication of the ordinance finally annexing the territory into the city. Upon completion of the annexation pursuant to this section, written notification shall be sent to the county judge/executive of the county in which the annexation occurred.

(5) Except as provided in subsection (6) of this section, the provisions of this section shall not prohibit a city from completing a proposed annexation that was initiated by the first reading of an ordinance to annex property pursuant to KRS 81A.412 or the first reading of an ordinance declaring the intent to annex property pursuant to KRS 81A.420(1) prior to March 1, 2023. Cities meeting the conditions set out in this subsection shall not be required to meet the requirements set out in subsection (3) of this section.

(6) When annexation is required in order to maintain ongoing services provided by a city to a school, no city, prior to July 1, 2024, may initiate or complete an annexation of an area that includes any property owned by that school district unless requested by the school district and concurred with by the fiscal court of the county.

(7) The provisions of this section shall not apply in counties that have adopted the urban-county form of government pursuant to KRS Chapter 67A or the consolidated local form of government pursuant to KRS Chapter 67C.

➔Section 4. The Legislative Research Commission is hereby directed to establish the Task Force on Local Government Annexation.

➔Section 5. The Task Force on Local Government Annexation shall investigate and make recommendations regarding:

(1) The present statutory methods for city annexation;

(2) The beneficial and deleterious effects of city annexation on issues such as taxation, economic development, provision and sustainability of water, gas, electric, sewer, and other utility services, police protection, fire protection, and emergency services from the perspective of local governments and their residents; and

(3) Any recommended changes to statutory law arising from the task force's deliberations.

➔Section 6. (1) The Task Force on Local Government Annexation shall consist of:

(a) Four members of the Senate appointed by the President of the Senate, one of whom shall be a member of the minority party; and

(b) Four members of the House of Representatives appointed by the Speaker of the House, one of whom shall be a member of the minority party.

(2) Final membership of the task force is subject to the consideration and approval of the Legislative Research Commission.

➔Section 7. The Task Force on Local Government Annexation shall meet at least monthly and shall submit any findings and recommendations to the Legislative Research Commission for referral to the appropriate committee or committees by November 1, 2023.

➔Section 8. Provisions of Sections 4 to 7 of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

➔Section 9. Sections 4 to 8 of this Act shall have the same legal status as a Senate Concurrent Resolution.

➔Section 10. Whereas it is important to ensure that cities may begin to put in place measures to collect outstanding liens, and whereas it is important to ensure that any deleterious effects of annexation are ceased at the earliest opportunity, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Became law without Governor's signature March 29, 2023.

CHAPTER 129

(SB 163)

AN ACT relating to transportation and declaring an emergency.

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

➔Section 1. KRS 177.074 is amended to read as follows:

- (1) Every road which is part of the state primary system shall be identified by a specific route number. In addition to a route number, the secretary shall direct the placement of signage denoting the honorary naming of a bridge, a road, or a road segment to comply with the provisions of subsections (2), (3), and (5) of this section.
- (2) The secretary shall, within thirty (30) days of receipt of a written request by the commissioner of the Department of Kentucky State Police, name a state road or segment of a state road in memory and honor of Kentucky state troopers killed in the line of duty. The written request shall include the:
 - (a) Trooper's name;
 - (b) Date and circumstances of the trooper's death; and
 - (c) Specific segment of state road the Department of Kentucky State Police is requesting be named in honor and memory of the state trooper killed in the line of duty.
- (3) The road or road segment identified in the request shall be either the state road where the trooper was killed, or the state road closest to the deceased trooper's home. The cabinet shall consult with the commissioner of the Department of Kentucky State Police on the design and installation of the road signs naming the state road or road segment in honor and memory of each trooper, and the cabinet shall erect the appropriate highway signs within thirty (30) days of receipt of the written request required under subsection (2) of this section.
- (4) If the road segment identified in the request under subsection (2) of this section has already been named for another individual or organization, the Department of Kentucky State Police and the cabinet shall consult on and determine an alternate location that is acceptable to both agencies.
- (5) ***Upon direction by joint resolution of the General Assembly***, the secretary shall direct the placement of signage denoting:
 - (a) The honorary naming of a road, a road segment, or a bridge; ***or***

- (b) *The inclusion of an artist as an honoree on the Country Music Highway on United States Route 23*~~[upon direction by joint resolution of the General Assembly].~~
- (6) The placement of the signs installed as a result of a resolution passed by the General Assembly shall be the responsibility of the Department of Highways.
- (7) (a) A school board or the governing body of a city or county may petition the secretary for the installation of temporary signage honoring an individual, a group of individuals, or a team.
- (b) The secretary shall, within thirty (30) days of receipt of a written request under this subsection, approve or deny the petition.
- (c) Within thirty (30) days of the approval of a petition, the secretary shall direct the placement of honorary signage under this subsection. The Transportation Cabinet shall be the final arbiter of the location of signage placement under this subsection. Signage installed under this subsection shall remain in place for a minimum of one (1) year from the date of its placement.
- (d) The petitioning body shall bear all costs of signage and installation under this subsection.
- (8) The Transportation Cabinet may adopt administrative regulations to implement the provisions of subsection (7) of this section, including but not limited to basic standards for design and placement of signs and establishing a process to allow the petitioning body to reimburse the Transportation Cabinet for the cost of manufacturing and installing the signs for which a petition has been granted.
- (9) The new proposed truck bypass around Mayfield, Kentucky, shall be named the "Dick Castleman Bypass," after former State Representative Dick Castleman.
- (10) The bridge on United States Highway 27 over the Kentucky River near Camp Nelson, between Jessamine and Garrard Counties, shall be named the "Lloyd Murphy Memorial Bridge."

➔Section 2. KRS 186.240 (Effective until January 1, 2024) is amended to read as follows:

- (1) It shall be the duty of the cabinet to carry out the provisions of KRS 186.005 to 186.260, and:
- (a) Provide to the clerk in each county access to all forms provided for in KRS 186.005 to 186.260;
- (b) Keep a numerical record of all registration numbers issued in the state and also keep a record of motor or vehicle identification numbers required by KRS 186.160; and
- (c) Furnish to each clerk, originally each year upon estimate, and thereafter upon requisition at all times, a sufficient supply of standard, noncommercial plates and the supplies necessary to provide evidence of registration for all classes of vehicles required to be registered.
- (d) Prescribe a *standard* plate of practical form and size for police identification purposes that shall contain:
1. The registration identifier;
 2. An indication that Kentucky is the issuing jurisdiction;
 3. *At the discretion of the cabinet, any combination of the following phrases:*
 - a. *"Bluegrass State"; or*
 - b. *"United We Stand, Divided We Fall";*
 4. For standard plates for noncommercial vehicles:~~[;]~~
 - a. The county in which the plate is issued; *and*
 - b. *At the discretion of the person to whom the vehicle is registered, the phrase "In God We Trust"; and*
 - 5.~~[4;]~~ For plates for commercial vehicles, the year the license expires and words or information the Department of Vehicle Regulation may prescribe by administrative regulation, pursuant to KRS Chapter 13A~~[; and~~
 - 5.~~—~~ ~~At the discretion of the cabinet, a state slogan~~.
- (2) License plates issued pursuant to this chapter shall conform to the provisions of subsection (1)(c) and (d) of this section. The Transportation Cabinet shall provide for the issuance of reflectorized plates for all motor

vehicles, and shall collect a fee, in addition to the fee set out in KRS Chapter 186 and KRS 281.631, of fifty cents (\$0.50). The fifty cents (\$0.50) fee to reflectorize license plates shall be used by the cabinet as provided in subsection (3) of this section.

- (3) The reflectorized license plate program fund is established in the state road fund and appropriated on a continual basis to the cabinet to administer the moneys as provided in this subsection. The fifty cents (\$0.50) fee collected by the cabinet to reflectorize license plates shall be deposited into the program fund and used to issue reflectorized license plates. If at the end of a fiscal year, money remains in the program fund, it shall be retained in the fund and shall not revert to the state road fund. The interest and income earned on money in the program fund shall also be retained in the program fund to carry out the provisions of this subsection. The Transportation Cabinet shall issue reflectorized license plates under the provisions of this subsection on a schedule to be determined at the discretion of the cabinet.
- (4) Except as directed under subsection (3) of this section, the Transportation Cabinet shall receive all moneys forwarded by the clerk in each county and turn it over to the State Treasurer for the benefit of the state road fund.
- (5) The Transportation Cabinet shall require an accounting by the clerk in each county for any moneys received by ~~the clerk~~ under the provisions of this chapter, after the deduction of ~~the clerk's~~ fees under this chapter, and for all receipts, forms, plates, and insignia consigned to ~~the clerk~~. The Auditor of Public Accounts, pursuant to KRS 43.071, shall annually audit each county clerk concerning ~~the clerk's~~ responsibilities for the collection of various fees and taxes associated with motor vehicles. The secretary of the Transportation Cabinet, with the advice, consultation, and approval of the Auditor, shall develop and implement an inventory and accounting system which shall insure that the audits mandated in KRS 43.071 are performed in accordance with generally accepted auditing standards. The Transportation Cabinet shall pay for the audits mandated by KRS 43.071.
- (6) When applied for under KRS 186.060 or 186.061, motor or vehicle numbers assigned shall be distinctive to show that they were designated by the cabinet.

➔ Section 3. KRS 186.240 (Effective January 1, 2024) is amended to read as follows:

- (1) It shall be the duty of the cabinet to carry out the provisions of KRS 186.005 to 186.260, and:
 - (a) Provide to the clerk in each county access to all forms provided for in KRS 186.005 to 186.260;
 - (b) Keep a numerical record of all registration numbers issued in the state and also keep a record of motor or vehicle identification numbers required by KRS 186.160;
 - (c) Furnish to each clerk, originally each year upon estimate, and thereafter upon requisition at all times, a sufficient supply of standard, noncommercial plates and the supplies necessary to provide evidence of registration for all classes of vehicles required to be registered; and
 - (d) Prescribe a *standard* plate of practical form and size for police identification purposes that shall contain:
 1. The registration identifier;
 2. An indication that Kentucky is the issuing jurisdiction;
 3. *At the discretion of the cabinet, any combination of the following phrases:*
 - a. *"Bluegrass State"; or*
 - b. *"United We Stand, Divided We Fall";*
 4. For standard plates for noncommercial vehicles:
 - a. The county in which the plate is issued; *and*
 - b. *At the discretion of the person to whom the vehicle is registered, the phrase "In God We Trust"; and*
 5. For plates for commercial vehicles, the year the license expires and words or information the Department of Vehicle Regulation may prescribe by administrative regulation, pursuant to KRS Chapter 13A; ~~and~~
 5. ~~At the discretion of the cabinet, a state slogan.~~

- (2) Except as provided in KRS 186A.127, license plates issued pursuant to this chapter shall conform to the provisions of subsection (1)(c) and (d) of this section. The Transportation Cabinet shall provide for the issuance of reflectorized plates for all motor vehicles, and shall collect a fee, in addition to the fee set out in KRS Chapter 186 and KRS 281.631, of fifty cents (\$0.50). The fifty cents (\$0.50) fee to reflectorize license plates shall be used by the cabinet as provided in subsection (3) of this section.
- (3) The reflectorized license plate program fund is established in the state road fund and appropriated on a continual basis to the cabinet to administer the moneys as provided in this subsection. The fifty cents (\$0.50) fee collected by the cabinet to reflectorize license plates shall be deposited into the program fund and used to issue reflectorized license plates. If at the end of a fiscal year, money remains in the program fund, it shall be retained in the fund and shall not revert to the state road fund. The interest and income earned on money in the program fund shall also be retained in the program fund to carry out the provisions of this subsection. The Transportation Cabinet shall issue reflectorized license plates under the provisions of this subsection on a schedule to be determined at the discretion of the cabinet.
- (4) Except as directed under subsection (3) of this section, the Transportation Cabinet shall receive all moneys forwarded by the clerk in each county and turn it over to the State Treasurer for the benefit of the state road fund.
- (5) The Transportation Cabinet shall require an accounting by the clerk in each county for any moneys received by him or her under the provisions of this chapter, after the deduction of his or her fees under this chapter, and for all receipts, forms, plates, and insignia consigned to him or her. The Auditor of Public Accounts, pursuant to KRS 43.071, shall annually audit each county clerk concerning his or her responsibilities for the collection of various fees and taxes associated with motor vehicles. The secretary of the Transportation Cabinet, with the advice, consultation, and approval of the Auditor, shall develop and implement an inventory and accounting system which shall insure that the audits mandated in KRS 43.071 are performed in accordance with generally accepted auditing standards. The Transportation Cabinet shall pay for the audits mandated by KRS 43.071.
- (6) When applied for under KRS 186.060 or 186.061, motor or vehicle numbers assigned shall be distinctive to show that they were designated by the cabinet.

➔Section 4. KRS 186A.120 (Effective until January 1, 2024) is amended to read as follows:

- (1) Application for a first certificate of registration or title and plate, shall be made by the owner to the county clerk of the county in which he resides, except that, if a vehicle is purchased from a dealer other than in the county in which the purchaser for use resides, the purchaser, or the dealer on behalf of the purchaser, may make application for registration to the county clerk in either the county in which the purchaser resides, or in the county in which the dealer's principal place of business is located.
- (2)
 - (a) When purchaser of a vehicle upon which a lien is to be recorded is a resident of a county other than that of the dealer, the application for registration or title may be made to the county clerk in either county. The lien must be recorded in the county of the purchaser's residence.
 - (b) If vehicle application for registration or title is presented to the county clerk of dealer's location rather than purchaser's residence, the clerk shall process documents in a manner similar to that of any application, with the exception that the AVIS system shall be programmed in a manner that the title shall not be issued from Frankfort until the lien information has been entered by the county clerk of the purchaser's residence.
- (3)
 - (a) A new vehicle, when first registered or titled in this state, shall be registered or titled in the name of the first owner for use rather than in the name of a dealer who held the vehicle for sale.
 - (b) Except as otherwise provided in this chapter, a used vehicle not previously registered or titled in this state shall be registered or titled in the name of the first owner for use rather than in the name of a dealer who held the vehicle for resale.
- (4) If the owner of a vehicle required to be registered or titled in this state does not reside in the Commonwealth, the vehicle shall be registered or titled with the county clerk of the county in which the vehicle is principally operated.
- (5) ***The Transportation Cabinet shall not require a member of the Armed Forces who is stationed in the Commonwealth to obtain a Kentucky operator's license in order to register a motor vehicle in the Commonwealth.***

- (6) If the owner of a vehicle is other than an individual and resides in the Commonwealth, the vehicle shall be registered or titled with the county clerk in either the county in which the owner resides or in the county in which the vehicle is principally operated.

➔Section 5. KRS 186A.120 (Effective January 1, 2024) is amended to read as follows:

- (1) Except for applications for title using the electronic title application and registration system established under KRS 186A.017, application for a first certificate of registration or title and plate shall be made by the owner to the county clerk of the county in which the owner resides, except that, if a vehicle is purchased from a dealer other than in the county in which the purchaser for use resides, the purchaser, or the dealer on behalf of the purchaser, may make application for registration to the county clerk in either the county in which the purchaser resides, or in the county in which the dealer's principal place of business is located.
- (2)
 - (a) When purchaser of a vehicle upon which a lien is to be recorded is a resident of a county other than that of the dealer, the application for registration or title may be made to the county clerk in either county. The lien must be recorded in the county of the purchaser's residence.
 - (b) If vehicle application for registration or title is presented to the county clerk of dealer's location rather than purchaser's residence, the clerk shall process documents in a manner similar to that of any application, with the exception that the AVIS system shall be programmed in a manner that the title shall not be issued from Frankfort until the lien information has been entered by the county clerk of the purchaser's residence.
- (3)
 - (a) A new vehicle, when first registered or titled in this state, shall be registered or titled in the name of the first owner for use rather than in the name of a dealer who held the vehicle for sale.
 - (b) Except as otherwise provided in this chapter, a used vehicle not previously registered or titled in this state shall be registered or titled in the name of the first owner for use rather than in the name of a dealer who held the vehicle for resale.
- (4) If the owner of a vehicle required to be registered or titled in this state does not reside in the Commonwealth, the vehicle shall be registered or titled with the county clerk of the county in which the vehicle is principally operated.
- (5) ***The Transportation Cabinet shall not require a member of the Armed Forces who is stationed in the Commonwealth to obtain a Kentucky operator's license in order to register a motor vehicle in the Commonwealth.***
- (6) If the owner of a vehicle is other than an individual and resides in the Commonwealth, the vehicle shall be registered or titled with the county clerk in either the county in which the owner resides or in the county in which the vehicle is principally operated.

➔Section 6. KRS 190.070 is amended to read as follows:

- (1) It shall be a violation of this section for any manufacturer, distributor, factory branch, or factory representative licensed under this chapter, ***either directly or indirectly***, to require any new motor vehicle dealer in the Commonwealth:
 - (a) To order or accept delivery of any motor vehicle, part or accessory thereof, appliances, equipment, or any other product not required by law, which shall not have been voluntarily ordered by the new motor vehicle dealer; except that this section is not intended to modify or supersede any terms or provisions of the franchise requiring new motor vehicle dealers to market a representative line of those motor vehicles which the manufacturer or distributor is publicly advertising;[-]
 - (b) To order or accept delivery of any new motor vehicle with special features, appliances, accessories, or equipment not included in the list price of the motor vehicle, as publicly advertised by the manufacturer or distributor;[-]
 - (c) To order for any person any parts, accessories, equipment, machinery tools, appliance, or any commodity whatsoever not required in connection with a recall campaign;[-]
 - (d) To participate monetarily in an advertising campaign or contest, any promotional materials, training materials, showroom or other display decorations, or materials, at the expense of the dealer, without the consent of the dealer;[-]
 - (e) To enter into any agreement with the manufacturer, distributor, factory branch, or factory representative, or to do any other act prejudicial to the new motor vehicle dealer by threatening to

cancel a franchise or any contractual agreement existing between the dealer and the manufacturer, distributor, factory branch, or factory representative. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of the dealer's franchise, or contractual agreement shall not constitute a violation of this law;[-]

- (f) To change the capital structure of the dealership, or the means by or through which the dealer finances the operation of the dealership, provided that the dealership at all times meets any reasonable capital standards agreed to by the dealer, excluding any entity engaged primarily in providing financing or insurance on motor vehicles;[-]
 - (g) To refrain from participation in the management or investment in, or the acquisition of any other line of new motor vehicle or related products; provided, however, that this section does not apply unless the new motor vehicle dealer maintains a reasonable line of credit for each make or line of new motor vehicles, and that the new motor vehicle dealer remains in substantial compliance with the terms and conditions of the franchise and with any reasonable facility requirements of the manufacturer, and no change is made in the principal management of the new motor vehicle dealership;[-]
 - (h) To change *the* location of the dealership[-] or[-to], during the course of the agreement, make any substantial alterations to *the same components of* the dealership premises:
 1. *Within ten (10) years of a previously required improvement, alteration, or construction to those same components; or*[-]
 2. When to do so, would be unreasonable in light of the current economic, political, and social considerations;[-]
 - (i) To prospectively assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability to be imposed by this law, or to require any controversy between a dealer and a manufacturer, distributor, or representative, to be referred to any person other than the duly constituted courts of the Commonwealth or the United States of America, or to the commissioner, if the referral would be binding upon the dealer;[-]
 - (j) To establish or maintain exclusive facilities, personnel, display space, or signage for a new motor vehicle make or line; *or*[-]
 - (k) To expand facilities without making available a sufficient supply of new motor vehicles to support the expansion in light of the market and economic conditions.
- (2) It shall be a violation of this section for any manufacturer, distributor, factory branch, or factory representative, *either directly or indirectly*:
- (a) To delay, refuse, or fail to deliver motor vehicles, or vehicle parts or accessories in reasonable quantities relative to the new motor vehicle dealer's facilities and sales potential in the new motor vehicle dealer's relevant market area, and within a reasonable time, but in any case no more than sixty (60) days, after receipt of an order from a dealer having a franchise for the retail sale of any new vehicle sold or distributed by the manufacturer or distributor, any new vehicle, parts, or accessories to new vehicles as are covered by the franchise, if the vehicle, parts, or accessories are publicly advertised as being available for delivery or actually being delivered. The delivery to another dealer of a motor vehicle of the same model and *identically*[-similarly] equipped as the vehicle ordered by a motor vehicle dealer who has not received delivery thereof, but who had placed his *or her* written order for the vehicle prior to the order of the dealer receiving the vehicle, shall be prima facie evidence of a delayed delivery of, or refusal to deliver, a new motor vehicle to a motor vehicle dealer within sixty (60) days, without cause. This section is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer, distributor, factory branch, or factory representative;[-]
 - (b) To refuse to disclose to any new motor vehicle dealer, handling the same line make, the manner and mode of distribution of that line make within the relevant market areas;[-]
 - (c) To prevent or attempt to prevent a dealer from receiving fair and reasonable compensation for the value of the franchised business. There shall not be a transfer or assignment of the dealer's franchise without the consent of the manufacturer or distributor, which consent shall not be unreasonably withheld;[-]
 - (d) *To receive money, goods, services, or any other benefit from any vendor on account of a transaction between the dealer and the vendor with whom the dealer does business on the recommendation or requirement of the manufacturer or distributor, other than for compensation for services rendered,*

~~unless the benefit is promptly accounted for, and transmitted to the dealer, excluding any entity engaged primarily in providing financing or insurance on motor vehicles; [To obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and the other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to, the dealer, excluding any entity engaged primarily in providing financing or insurance on motor vehicles.]~~

- (e) To increase prices of motor vehicles which the dealer had ordered for private retail customers prior to the dealer's receipt of the written official price increase notification, a sales contract signed by a private retail consumer shall constitute evidence of each order, provided that the vehicle is in fact delivered to the customer. In the event of manufacturer price reductions, the amount of a reduction received by a dealer shall be passed on to the private retail consumer by the dealer, if the retail price was negotiated on the basis of the previous higher price to the dealer. Price reductions shall apply to all vehicles in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series motor vehicles at the time of the introduction of new models or series shall not be considered a price increase or price decrease. Price changes caused by the following shall not be subject to the provisions of this section:
1. The addition to a motor vehicle of required or optional equipment pursuant to state or federal law;
 2. Revaluation of the United States dollar, in the case of foreign-make vehicles or components; or
 3. Increased transportation charges due to an increase in the rate charged by common carrier or transporter;[-]
- (f) To offer any refunds or other types of inducements to any person for the purchase of new motor vehicles of a certain line make to be sold to the state or any political subdivision thereof, without making the same offer, upon written request, to all other dealers in the same line make within the relevant market area;[-]
- (g) To release to any outside party, except under subpoena, any administrative, judicial or arbitration proceedings, or any business, financial, or personal information which may be, from time to time, provided by the dealer to the manufacturer, without the express written consent of the dealer;[-]
- (h) To deny any dealer the right of free association with any other dealer for any lawful purpose;[-]
- (i) To establish or maintain a relationship, on the part of a manufacturer, distributor, factory branch, or factory representative, where the voting rights exceed a simple majority;[-]
- (j) To own, operate, or control any motor vehicle dealership in the Commonwealth; however, this subsection shall not prohibit:
1. The operation by any manufacturer of a dealership for a temporary period, not to exceed one (1) year, during the transition from one (1) owner to another;
 2. The ownership or control of a dealership by a manufacturer while the dealership is being sold under a bona fide contract or purchase option to the operator of the dealership; or
 3. The ownership, operation, or control of a dealership by a manufacturer if the licensor determines after a hearing at the request of any party, that there is not a dealer who is independent of the manufacturer available in the community or trade area to own and operate the franchise in a manner consistent with the public interest;[-]
- (k) To compete without good faith with a new motor vehicle dealer in the same line make, operating under an agreement or franchise from the aforementioned manufacturer, distributor, factory branch, or factory representative in the relevant market area. A manufacturer, distributor, factory branch, or factory representative shall not, however, be deemed to be competing when operating a dealership, either temporarily for a reasonable period, not to exceed one (1) year, or in a bona fide retail operation which is for sale to any qualified independent person at a fair and reasonable price, or in a bona fide relationship in which an independent person has made a significant investment, subject to loss in the dealership, and can reasonably expect to acquire full ownership of such dealership on reasonable terms and conditions;[-]
- (l) *To offer to sell or to sell, directly or indirectly, at retail, any new motor vehicle to a consumer in the Commonwealth, except through a new motor vehicle dealer holding a franchise for the line make***

covering the new motor vehicle. The prohibition in this paragraph shall not apply to manufacturer or franchisor sales of new motor vehicles to the federal government, charitable organizations, or fleet customers, but shall apply to any sale of a new motor vehicle to employees of the manufacturer or franchisor;

- (m) *To fail to assign any retail vehicle reservation, request to purchase, or lease received by the manufacturer from a resident of the Commonwealth to the franchised dealer designated by the customer or, if no designation is made, to the franchised dealer in the closest proximity to the consumer, and for which the franchised dealer is otherwise in compliance with the franchise agreement and authorized to sell the make and model based on applicable standards and requirements that include but are not limited to any facility, technology, or training requirements necessary to sell or service the vehicle, so long as the standards and requirements are compliant with the applicable laws and regulations. Nothing in this paragraph shall require a manufacturer or distributor to allocate or supply additional or supplemental inventory to a franchised dealer located in the Commonwealth in order to satisfy a retail consumer's reservation or request;*
- (n)~~(l)~~ To unfairly discriminate among its new motor vehicle dealers with respect to warranty reimbursement or authority granted its new motor vehicle dealers to make warranty adjustment with retail customers;~~;~~
- (o)~~(m)~~ To fail to give consent to the sale, transfer, or exchange of the franchise to a qualified buyer capable of being licensed as a new motor vehicle dealer in this state; provided that consent may be withheld when in light of other circumstances, granting the consent would be unreasonable; ~~or~~;
- (p)~~(n)~~ To fail to be licensed as provided in this chapter, and to maintain a bond in an amount as determined by this chapter.
- (3) It shall be unlawful for a manufacturer, either directly or indirectly, or in combination with or through any subsidiary or affiliated entity, to discriminate in favor of one (1) dealer against another dealer holding a franchise for the same line make of motor vehicle by furnishing to only one (1) dealer any of the following:
- (a) Any vehicle, part, or other product that is not available to each dealer at the same price, including discounts, rebates, incentives, or other payments or allowances affecting the net price of the product;
 - (b) Any vehicle, part, or other product that is not made available to each dealer in quantities proportionate to the demand for the vehicle, part, or other product;
 - (c) Any vehicle, part, or other product that is not made available to each dealer on comparable delivery terms, including time of delivery after placement of an order;
 - (d) Any promotional or advertising payment or allowance that is not made available to each dealer on proportionally equal terms;
 - (e) Any opportunity to purchase or lease from the manufacturer the dealer's facility that is not made available to each dealer on terms proportionate to the respective values of its facilities;
 - (f) Any personnel training that is not made available to each dealer on proportionally equal terms;
 - (g) Any inventory or other financing that is not made available to each dealer on proportionally equal terms, except that a manufacturer, subsidiary, or affiliated entity shall not be obligated to make available financing to a dealer who does not meet reasonable credit standards uniformly applied by the manufacturer, subsidiary, or affiliated entity;
 - (h) Any opportunity to perform work for which the dealer is entitled to be compensated under this chapter that is not made available to each dealer under uniformly applied standards;
 - (i) Any opportunity to sell products or services distributed by the manufacturer for resale in connection with the line make of the motor vehicle covered by the franchise that is not made available to each dealer on proportionally equal terms;
 - (j) Any opportunity to establish an additional sales, service, or parts outlet that is not made available to each dealer in whose relevant market area the sales, service, or parts outlet will be located;
 - (k) Any information concerning the manufacturer's products, prices or other terms of sale, or promotional programs that is not contemporaneously furnished to the dealer;

- (l) Any improvement to, or payment to the dealer for an improvement to, the dealer's facilities that is not made available to each dealer on proportionally equal terms;
 - (m) Any opportunity to sell or assign retail installment contracts or consumer leases to the manufacturer or the manufacturer's sales finance company subsidiary that is not made available to each dealer on proportionally equal terms, except that a manufacturer or sales finance company shall not be obligated to purchase any retail installment contract or consumer lease that does not meet reasonable credit terms uniformly applied by the manufacturer or sales finance company subsidiary;
 - (n) Any product assistance, service, or facility in connection with the franchise that is not made available to each dealer on proportionally equal terms; or
 - (o) Any payment for any service or facility in connection with the franchise that is not made available to each dealer on proportionally equal terms.
- (4) It shall not be a defense to an alleged violation of subsection (3) of this section, that an item or opportunity was offered to a dealer if the offer was conditioned upon the dealer meeting one (1) or more requirements that are not reasonable and necessary to fulfill the dealer's obligations under the franchise. The manufacturer shall have the burden of proving that any requirement upon which an offer was conditioned was reasonable and necessary to fulfill the dealer's obligations under the franchise when the offer was made. A requirement shall not be found to be reasonable and necessary to fulfill the dealer's obligations under the franchise if the manufacturer cannot prove that it was within the control of each dealer to meet the requirement imposed on the dealer as a condition of the offer.
- (5) A dealer who alleges a good faith belief that the dealer has been, or is being, discriminated against in violation of subsection (3) of this section, may demand in writing that the manufacturer furnish the dealer with pertinent information reasonably necessary for the dealer to determine if discrimination exists. If the manufacturer fails to furnish the dealer with the information demanded within thirty (30) days of the manufacturer's receipt of the dealer's written demand, the manufacturer shall have, in any subsequent legal proceeding, the burden of proving that the alleged violation has not occurred.
- (6) Any dealer who is discriminated against by a manufacturer in violation of subsection (3) of this section shall recover three (3) times an amount equal to the value of what the dealer would have received if the manufacturer had complied with subsection (3) of this section upon furnishing any item or opportunity to another dealer.
- (7) A change in ownership of a manufacturer or distributor that contemplates a continuation of that line make in the state shall not directly or indirectly, through actions of any parent of the manufacturer or distributor, subsidiary of the manufacturer or distributor, or common entity cause a termination, cancellation, or nonrenewal of a dealer agreement by a present or previous manufacturer or distributor of an existing agreement unless the manufacturer or distributor offers the new vehicle dealer an agreement substantially similar to that offered to other dealers of the same line make.

➔Section 7. Whereas recent communications to Kentucky automobile dealers have caused confusion over the ability of members of the Armed Forces stationed in Kentucky to register a motor vehicle in the Commonwealth, an emergency is declared to exist, and Section 4 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Became law without Governor's signature March 29, 2023.

CHAPTER 130

(SB 209)

AN ACT relating to health care.

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

➔Section 1. KRS 304.17A-164 is amended to read as follows:

- (1) As used in this section:

- (a) "Cost sharing" means the cost to an ~~individual~~ insured under a health plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the plan, which may be subject to annual limitations on cost sharing, including those imposed under 42 U.S.C. secs. 18022(c) and 300gg-6(b), in order for **the insured** ~~an individual~~ to receive a specific health care service covered by the plan;
- (b) "Generic alternative" means a drug that is designated to be therapeutically equivalent by the United States Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations, except that a drug shall not be considered a generic alternative until the drug is nationally available;
- (c) "Health plan":
1. Means a policy, contract, certificate, or agreement offered or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the cost of health care services; and
 2. Includes a health benefit plan ~~as defined in KRS 304.17A-005~~;
- (d) "Insured" means any individual who is enrolled in a health plan and on whose behalf the insurer is obligated to pay for or provide health care services;
- (e) "Insurer" includes:
1. An insurer offering a health plan providing coverage for pharmacy benefits; or
 2. Any other administrator of pharmacy benefits under a health plan;
- (f) "Person" means a natural person, corporation, mutual company, unincorporated association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit corporation, unincorporated organization, government, or governmental subdivision or agency;
- (g) "Pharmacy" includes:
1. A pharmacy, as defined in KRS Chapter 315;
 2. A pharmacist, as defined in KRS Chapter 315; ~~and~~ ~~or~~
 3. Any employee of a pharmacy or pharmacist; and
- (h) "Pharmacy benefit manager" has the same meaning as in KRS 304.17A-161.
- (2) To the extent permitted under federal law **and except as provided in subsection (4) of this section**, an insurer issuing or renewing a health plan on or after January 1, 2022, or a pharmacy benefit manager, shall not:
- (a) Require an insured purchasing a prescription drug to pay a cost-sharing amount greater than the amount the insured would pay for the drug if he or she were to purchase the drug without coverage;
 - (b) Exclude any cost-sharing amounts paid by an insured or on behalf of an insured by another person for a prescription drug, including any amount paid under paragraph (a) of this subsection, when calculating an insured's contribution to any applicable cost-sharing requirement. The requirements of this paragraph shall not apply:
 1. In the case of a prescription drug for which there is a generic alternative, unless the insured has obtained access to the brand prescription drug through prior authorization, a step therapy protocol, or the insurer's exceptions and appeals process; **or**
 2. **To any fully insured health benefit plan or self-insured plan provided to any employee under KRS 18A.225;**
 - (c) Prohibit a pharmacy from discussing any information under subsection (3) of this section; or
 - (d) Impose a penalty on a pharmacy for complying with this section.
- (3) A pharmacist shall have the right to provide an insured information regarding the applicable limitations on his or her **cost sharing** ~~cost sharing~~ pursuant to this section for a prescription drug.
- (4) **If the application of any requirement of subsection (2)(b) of this section would be the sole cause of a health plan's failure to qualify as a Health Savings Account-qualified High Deductible Health Plan under 26 U.S.C. sec. 223, as amended, then the requirement shall not apply to that health plan until the minimum**

deductible under 26 U.S.C. sec. 223, as amended, is satisfied ~~[Subsection (2)(b) of this section shall not apply to any fully insured health benefit plan or self-insured plan provided to an employee under KRS 18A.225].~~

➔ Section 2. KRS 205.532 is amended to read as follows:

- (1) As used in KRS 205.532 to 205.536:
- (a) "Clean application" means:
1. For credentialing purposes, a credentialing application submitted by a provider to a credentialing verification organization that:
 - a. Is complete and correct;
 - b. Does not lack any required substantiating documentation; and
 - c. Is consistent with the requirements for the National Committee for Quality Assurance requirements; or
 2. For enrollment purposes, an enrollment application submitted by a provider to the department that:
 - a. Is complete and correct;
 - b. Does not lack any required substantiating documentation;
 - c. Complies with all provider screening requirements pursuant to 42 C.F.R. pt. 455; and
 - d. Is on behalf of a provider who does not have accounts receivable with the department;
- (b) "Credentialing application date" means the date that a credentialing verification organization receives a clean application from a provider;
- (c) ***"Credentialing alliance" means a contractual agreement entered into by Medicaid managed care organizations under which the managed care organizations agree to utilize a single credentialing verification organization and an identical credentialing process for the purpose of ensuring the timely and efficient credentialing of providers;***
- (d) "Credentialing verification organization" means an organization that gathers data and verifies the credentials of providers in a manner consistent with federal and state laws and the requirements of the National Committee for Quality Assurance;
- ~~(e)(d)~~ "Department" means the Department for Medicaid Services;
- ~~(f)(e)~~ "Medicaid managed care organization" or "managed care organization" means an entity with which the department has contracted to serve as a managed care organization as defined in 42 C.F.R. sec. 438.2; ~~and~~
- ~~(g)(f)~~ "Provider" has the same meaning as in KRS 304.17A-700; **and**
- (h) *"Request for proposals" has the same meaning as in KRS 45A.070.***
- (2) ~~[On and after January 1, 2019,]~~ Every contract entered into or renewed ***on or after the effective date of this Act*** for the delivery of Medicaid services by a managed care organization shall:
- (a) Be in compliance with KRS 205.522~~;~~ **and** 205.532 to 205.536;~~;~~ ~~and~~ ~~[304.17A-515]~~
 - (b) ***Require participation in a credentialing alliance recognized by the department pursuant to subsection (4) of this section if such an alliance has been established or utilization of the credentialing organization designated by the department pursuant to subsection (5) of this section.***
- (3) ***The department shall enroll a provider within sixty (60) calendar days of receipt of a clean provider enrollment application. The date of enrollment shall be the date that the provider's clean application was initially received by the department. The time limits established in this section shall be tolled or paused for any delay caused by an external entity. Tolling events include but are not limited to the screening requirements contained in 42 C.F.R. pt. 455 and searches of federal databases maintained by entities such as the United States Centers for Medicare and Medicaid Services.***
- ~~(4)(3)~~ (a) The department shall formally recognize a credentialing alliance formed ***by managed care organizations if*** ~~in the private sector that is~~:

1. ***One hundred percent (100%) of the total number of managed care organizations have entered into a contractual agreement to form the credentialing alliance prior to December 1, 2023***~~For the purpose of promoting a centralized process for credentialing providers];~~
 2. ***The credentialing verification organization contracted as part of the credentialing alliance is accredited by the National Committee for Quality Assurance; and***
 3. ***The credentialing verification organization contracted as part of the credentialing organization is owned by or affiliated with a statewide *healthcare****~~health care provider] trade association[that has at least one (1) year of experience providing credentialing services to at least one (1) Medicaid managed care organization in Kentucky].~~
- (b) A credentialing alliance ***established pursuant to this section*** shall:
1. Implement a single credentialing application via a Web-based portal available to all providers seeking to be credentialed for any Medicaid managed care organization that participates in the credentialing alliance;
 2. Perform primary source verification and credentialing committee review of each credentialing application that results in a recommendation on the provider's credentialing within thirty (30) days of receipt of a clean application;
 3. Notify providers within five (5) business days of receipt of a credentialing application if the application is incomplete;
 4. Provide provider outreach and help desk services during common business hours to facilitate provider applications and credentialing information;
 5. Expediently communicate the credentialing recommendation and supporting credentialing information electronically to the department and to each participating Medicaid managed care organization with which the provider is seeking credentialing; and
 6. Conduct reevaluation of provider documentation when required pursuant to state or federal law or when necessary for the provider to maintain participation status with a Medicaid managed care organization.
- ~~[(c) If on or before December 31, 2021, sixty percent (60%) or more, with any fraction of a percent rounded down, of the total number of Medicaid managed care organizations have entered into contracts with a credentialing alliance, the procurement provisions of this section shall be null and void and the department shall discontinue any contracts for credentialing verification services so that each Medicaid managed care organization shall bear its own costs for provider credentialing.]~~
- (5) (a) ***If a credentialing alliance has not been established and recognized by the department pursuant to subsection (4) of this section by December 31, 2023, the department shall, through a request for proposals and in accordance with KRS Chapter 45A, designate a single credentialing verification organization to verify the credentials of providers on behalf of all managed care organizations.***
- (b) ***If the department designates a single credentialing verification organization pursuant to this subsection:***
1. ***The contract between the department and the credentialing verification organization shall be submitted to the Government Contract Review Committee of the Legislative Research Commission for comment and review;***
 2. ***The credentialing verification organization shall be reimbursed on a per provider credentialing basis by the department with the reimbursement being offset or deducted equally from each managed care organizations capitation payment;***
 3. ***The credentialing verification organization shall comply with paragraph (b) of subsection (4) of this section; and***
 4. ***The department may promulgate administrative regulations in accordance with KRS Chapter 13A to ensure the timely and efficient credentialing of providers.***
- ~~(6) [(d)]~~ If a Medicaid managed care organization assumes responsibility and costs for their own provider credentialing ***by entering into a credentialing alliance*** pursuant to this ~~section~~~~subsection~~, the timely credentialing of providers shall be given significant weight as a factor in the scoring process when the

department evaluates the Medicaid managed care organization's response to requests for proposals for all contract awards.

~~(7)(4)(a)~~ The department shall enroll a provider within sixty (60) calendar days of receipt of a clean provider enrollment application. The date of enrollment shall be the date that the provider's clean application was initially received by the department. The time limits established in this section shall be tolled or paused by a delay caused by an external entity. Tolling events include but are not limited to the screening requirements contained in 42 C.F.R. pt. 455 and searches of federal databases maintained by entities such as the United States Centers for Medicare and Medicaid Services.

~~(b)~~ A Medicaid managed care organization shall:

~~(a)(1)~~ Determine whether it will contract with the provider within thirty (30) calendar days of receipt of the verified credentialing information from a credentialing verification organization *either designated by the department or contracted by managed care organizations as part of a credentialing alliance*; and

~~(b)(2) I.(a)~~ Within ten (10) days of an executed contract, ensure that any internal processing systems of the managed care organization have been updated to include:

~~a.(i)~~ The accepted provider contract; and

~~b.(ii)~~ The provider as a participating provider.

~~2.(b)~~ In the event that the loading and configuration of a contract with a provider will take longer than ten (10) days, the managed care organization may take an additional fifteen (15) days if it has notified the provider of the need for additional time.

~~(8)(5)~~ (a) Nothing in this section requires a Medicaid managed care organization to contract with a provider if the managed care organization and the provider do not agree on the terms and conditions for participation.

(b) Nothing in this section shall prohibit a provider and a managed care organization from negotiating the terms of a contract prior to the completion of the department's enrollment and screening process.

~~(9)(6)~~ (a) For the purpose of reimbursement of claims, once a provider has met the terms and conditions for credentialing and enrollment, the provider's credentialing application date shall be the date from which the provider's claims become eligible for payment.

(b) A Medicaid managed care organization shall not require a provider to appeal or resubmit any clean claim submitted during the time period between the provider's credentialing application date and the completion of the credentialing process.

(c) Nothing in this section shall limit the department's authority to establish criteria that allow a provider's claims to become eligible for payment in the event of lifesaving or life-preserving medical treatment, such as, for an illustrative but not exclusive example, an organ transplant.

~~(10)(7)~~ Nothing in this section shall prohibit a university hospital, as defined in KRS 205.639, from performing the activities of a credentialing verification organization for its employed physicians, residents, and mid-level practitioners where such activities are delineated in the hospital's contract with a Medicaid managed care organization. The provisions of subsections (3), (4), ~~(8)(5)~~, and ~~(9)(6)~~ of this section with regard to payment and timely action on a credentialing application shall apply to a credentialing application that has been verified through a university hospital pursuant to this subsection.

~~(11)(8)~~ To promote seamless integration of licensure information, the relevant provider licensing boards in Kentucky are encouraged to forward and provide licensure information electronically to the department and any credentialing verification organization.

➔Section 3. In implementing the requirements of this Act, the state shall only regulate a pharmacy benefit manager or an insurer to the extent permissible under applicable law.

Became law without Governor's signature March 29, 2023.

CHAPTER 131

(SB 126)

AN ACT relating to venue and declaring an emergency.

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

➔Section 1. KRS 452.005 is amended to read as follows:

- (1) Except as provided in KRS 5.005 and 286.12-135, and notwithstanding any other statute to the contrary, the venue for any civil action that:
 - (a) Challenges the constitutionality of a Kentucky:
 1. Statute;
 2. Executive order;
 3. Administrative regulation; or
 4. Order of any cabinet, program cabinet, or department established under KRS Chapter 12;
 - (b) Includes a claim for declaratory judgment or injunctive relief; and
 - (c) Is brought individually, jointly, or severally against:
 1. Any state official *or state officer* in his or her official capacity, including any public servant as defined in KRS 11A.010;~~[-or]~~
 2. Any body, subdivision, caucus, committee, or member of the General Assembly, or the Legislative Research Commission; *or*
 3. *Any agency of the state as defined in KRS 11A.010;*

shall be as provided in this section.

- (2) (a) A plaintiff who is a resident of Kentucky shall file a complaint or petition in the office of the Circuit Court clerk in the county where the plaintiff resides. If more than one (1) plaintiff is a party to the action, the complaint or petition may be filed in any county where any plaintiff resides.
- (b) A plaintiff who is not a resident of Kentucky shall file a complaint or petition in the Franklin Circuit Court.
- (3) The plaintiff shall certify in the complaint or petition filed under this section that a copy of the complaint or petition has been served upon the Attorney General before or at the time of filing, and the Attorney General shall be entitled to be heard.
- (4) (a) *Any plaintiff or defendant to a civil action under subsection (1) of this section may seek a change of venue by filing a notice of transfer in the Circuit Court in which the action was originally filed no later than thirty (30) days after the return of service on the defendant. The Attorney General, as an intervening defendant, may seek a change of venue no later than thirty (30) days from intervention.*
- (b) *The notice shall be transmitted forthwith to the clerk of the Supreme Court who shall direct the transfer of the action to a different Circuit Court chosen by the clerk of the Supreme Court through random selection.*
- (c) *After randomly selecting the Circuit Court to which the action shall be transferred, the clerk of the Supreme Court shall notify the Circuit Court clerk of the county in which the action was originally filed of the selection and the Circuit Court shall immediately transfer the action and the record of the action to the Circuit Court designated by the clerk of the Supreme Court.*
- (5) In any appeal to the Kentucky Court of Appeals or Supreme Court, or the federal appellate courts in any forum that involves the constitutional validity of a statute, executive order, administrative regulation, or order of any cabinet, program cabinet, or department established under KRS Chapter 12, the Attorney General shall, before the filing of the appellant's brief, be served with a copy of the pleading, paper, or other document that initiates the appeal in the appellate forum. This notice shall specify the challenged statute, executive order, administrative regulation, or order of a cabinet, program cabinet, or department established under KRS Chapter 12, and the nature of the alleged constitutional defect.

- ~~(6)~~~~(5)~~ The Attorney General shall notify the Legislative Research Commission of:

- (a) The receipt of a complaint or petition and the nature of any proceedings involving the validity of any statute or regulation, or order of a cabinet, program cabinet, or department established under KRS Chapter 12; and
 - (b) The entering of a final judgment in those proceedings, if the Attorney General is a party to the action.
- (7)~~(6)~~ To protect the rights of the citizens of the Commonwealth of Kentucky as guaranteed by the Constitution of Kentucky, it is the intent of the General Assembly that any action brought or pursued under this section be given priority and prosecuted in an expeditious manner.
- (8)~~(7)~~ Pursuant to Sections 43 and 231 of the Constitution of Kentucky, members of the General Assembly, organizations within the legislative branch of state government, or officers or employees of the legislative branch shall not be made parties to any action challenging the constitutionality or validity of any statute or regulation, without the consent of the member, organization, or officer or employee.
- (9)~~(8)~~ Nothing in this section is intended to waive, nor shall it be interpreted or applied to waive or abrogate in any way, any legislative immunity or legislative privilege of any body, subdivision, caucus, committee, or member of the General Assembly, or the Legislative Research Commission, as provided by the Constitution of Kentucky, KRS 418.075, any other statute of this Commonwealth, or federal or state common law.

➔Section 2. Whereas it is a critical government interest to provide litigants access to courts of this Commonwealth without any concern of bias, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Veto Overridden March 29, 2023.

CHAPTER 132

(SB 150)

AN ACT relating to children.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
- (a) *"External health care provider" means a provider of health or mental health services that is not employed by or contracted with the school district to provide services to the district's students;*
 - (b) *"Health services" has the same meaning as in KRS 156.502;*
 - (c) *"Mental health services" means services provided by a school-based mental health services provider as defined in KRS 158.4416 but shall not include academic or career counseling; and*
 - (d) *"Parent" means a person who has legal custody or control of the student such as a mother, father, or guardian.*
- (2) *Upon a student's enrollment and at the beginning of each school year, the district shall provide a notification to the student's parents listing each of the health services and mental health services related to human sexuality, contraception, or family planning available at the student's school and of the parents' right to withhold consent or decline any of those specific services. A parent's consent to a health service or mental health service under this subsection shall not waive the parent's right to access the student's educational or health records held by the district or the notifications required under subsection (3) of this section.*
- (3) *Except as provided in subsection (5) of this section, as part of a school district's effort to provide a safe and supportive learning environment for students, a school shall notify a student's parents if:*
- (a) *The school changes the health services or mental health services related to human sexuality, contraception, or family planning that it provides, and shall obtain parental consent prior to providing health services or mental health services to the student; or*

- (b) *School personnel make a referral:*
1. *For the student to receive a school's health services or mental health services; or*
 2. *To an external health care provider, for which parental consent shall be obtained prior to the referral being made.*
- (4) *School districts and district personnel shall respect the rights of parents to make decisions regarding the upbringing and control of the student through procedures encouraging students to discuss mental or physical health or life issues with their parents or through facilitating the discussion with their parents.*
- (5) (a) *The Kentucky Board of Education or the Kentucky Department of Education shall not require or recommend that a local school district keep any student information confidential from a student's parents. A district or school shall not adopt policies or procedures with the intent of keeping any student information confidential from parents.*
- (b) *The Kentucky Board of Education or the Kentucky Department of Education shall not require or recommend policies or procedures for the use of pronouns that do not conform to a student's biological sex as indicated on the student's original, unedited birth certificate issued at the time of birth pursuant to KRS 156.070(2)(g)2.*
- (c) *A local school district shall not require school personnel or students to use pronouns for students that do not conform to that particular student's biological sex as referenced in paragraph (b) of this subsection.*
- (d) *Nothing in this subsection shall prohibit a school district or district personnel from withholding information from a parent if a reasonably prudent person would believe, based on previous conduct and history, that the disclosure would result in the child becoming a dependent child or an abused or neglected child as defined in KRS 600.020. The fact that district personnel withhold information from a parent under this subsection shall not in itself constitute evidence of failure to report dependency, neglect, or abuse to the Cabinet for Health and Family Services under KRS 620.030.*
- (6) *Prior to a well-being questionnaire or assessment, or a health screening form being given to a child for research purposes, a school district shall provide the student's parent with access to review the material and shall obtain parental consent. Parental consent shall not be a general consent to these assessments or forms but shall be required for each assessment or form. A parent's refusal to consent shall not be an indicator of having a belief regarding the topic of the assessment or form.*
- (7) *Nothing in this section shall:*
- (a) *Prohibit a school district or the district's personnel from seeking or providing emergency medical or mental health services for a student as outlined in the district's policies; or*
 - (b) *Remove the duty to report pursuant to KRS 620.030 if district personnel has reasonable cause to believe the child is a dependent child or an abused or neglected child due to the risk of physical or emotional injury identified in KRS 600.020(1)(a)2. or as otherwise provided in that statute.*

➔Section 2. KRS 158.1415 is amended to read as follows:

- (1) If a school council or, if none exists, the principal adopts a curriculum for human sexuality or sexually transmitted diseases, instruction shall include but not be limited to the following content:
- (a)~~{(1)}~~ Abstinence from sexual activity is the desirable goal for all school-age children;
 - (b)~~{(2)}~~ Abstinence from sexual activity is the only certain way to avoid unintended pregnancy, sexually transmitted diseases, and other associated health problems;~~{and}~~
 - (c)~~{(3)}~~ The best way to avoid sexually transmitted diseases and other associated health problems is to establish a permanent mutually faithful monogamous relationship;
 - (d) *A policy to respect parental rights by ensuring that:*
 1. *Children in grade five (5) and below do not receive any instruction through curriculum or programs on human sexuality or sexually transmitted diseases; or*
 2. *Any child, regardless of grade level, enrolled in the district does not receive any instruction or presentation that has a goal or purpose of students studying or exploring gender identity, gender expression, or sexual orientation; and*

- (e) *A policy to notify a parent in advance and obtain the parent's written consent before the parent's child in grade six (6) or above receives any instruction through curriculum or programs on human sexuality or sexually transmitted diseases authorized in this section.*
- (2) *Any course, curriculum, or program offered by a public school on the subject of human sexuality provided by school personnel or by third parties authorized by the school shall:*
- (a) *Provide an alternative course, curriculum, or program without any penalty to the student's grade or standing for students whose parents have not provided written consent as required in subsection (1)(e) of this section;*
 - (b) *Be subject to an inspection by parents of participating students that allows parents to review the following materials:*
 1. *Curriculum;*
 2. *Instructional materials;*
 3. *Lesson plans;*
 4. *Assessments or tests;*
 5. *Surveys or questionnaires;*
 6. *Assignments; and*
 7. *Instructional activities;*
 - (c) *Be developmentally appropriate; and*
 - (d) *Be limited to a curriculum that has been subject to the reasonable review and response by stakeholders in conformity with this subsection and KRS 160.345(2).*
- (3) *A public school offering any course, curriculum, or program on the subject of human sexuality shall provide written notification to the parents of a student at least two (2) weeks prior to the student's planned participation in the course, curriculum, or program. The written notification shall:*
- (a) *Inform the parents of the provisions of subsection (2) of this section;*
 - (b) *Provide the date the course, curriculum, or program is scheduled to begin;*
 - (c) *Detail the process for a parent to review the materials outlined in subsection (2) of this section;*
 - (d) *Explain the process for a parent to provide written consent for the student's participation in the course, curriculum, or program; and*
 - (e) *Provide the contact information for the teacher or instructor of the course, curriculum, or program and a school administrator designated with oversight.*
- (4) *Nothing in this section shall prohibit school personnel from:*
- (a) *Discussing human sexuality, including the sexuality of any historic person, group, or public figure, where the discussion provides necessary context in relation to a topic of instruction from a curriculum approved pursuant to KRS 160.345; or*
 - (b) *Responding to a question from a student during class regarding human sexuality as it relates to a topic of instruction from a curriculum approved pursuant to KRS 160.345.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
- (a) *"Biological sex" means the physical condition of being male or female, which is determined by a person's chromosomes, and is identified at birth by a person's anatomy; and*
 - (b) *"School" means a school under the control of a local board of education or a charter school board of directors.*
- (2) *The General Assembly finds that:*
- (a) *School personnel have a duty to protect the dignity, health, welfare, and privacy rights of students in their care;*

- (b) *Children and young adults have natural and normal concerns about privacy while in various states of undress, and most wish for members of the opposite biological sex not to be present in those circumstances;*
 - (c) *Allowing students to use restrooms, locker rooms, or shower rooms that are reserved for students of a different biological sex:*
 - 1. *Will create a significant potential for disruption of school activities and unsafe conditions; and*
 - 2. *Will create potential embarrassment, shame, and psychological injury to students;*
 - (d) *Parents have a reasonable expectation that schools will not allow minor children to be viewed in various states of undress by members of the opposite biological sex, nor allow minor children to view members of the opposite sex in various states of undress; and*
 - (e) *Schools have a duty to respect and protect the privacy rights of students, including the right not to be compelled to undress or be unclothed in the presence of members of the opposite biological sex.*
- (3) *Each local board of education or charter school board of directors shall, after allowing public comment on the issue at an open meeting, adopt policies necessary to protect the privacy rights outlined in subsection (2) of this section and enforce this subsection. Those policies shall, at a minimum, not allow students to use restrooms, locker rooms, or shower rooms that are reserved for students of a different biological sex.*
- (4) (a) *A student who asserts to school officials that his or her gender is different from his or her biological sex and whose parent or legal guardian provides written consent to school officials shall be provided with the best available accommodation, but that accommodation shall not include the use of school restrooms, locker rooms, or shower rooms designated for use by students of the opposite biological sex while students of the opposite biological sex are present or could be present.*
- (b) *Acceptable accommodations may include but are not limited to access to single-stall restrooms or controlled use of faculty bathrooms, locker rooms, or shower rooms.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section:*
- (a) *"Minor" means any person under the age of eighteen (18) years; and*
 - (b) *"Sex" means the biological indication of male and female as evidenced by sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth.*
- (2) *Except as provided in subsection (3) of this section, a health care provider shall not, for the purpose of attempting to alter the appearance of, or to validate a minor's perception of, the minor's sex, if that appearance or perception is inconsistent with the minor's sex, knowingly:*
- (a) *Prescribe or administer any drug to delay or stop normal puberty;*
 - (b) *Prescribe or administer testosterone, estrogen, or progesterone, in amounts greater than would normally be produced endogenously in a healthy person of the same age and sex;*
 - (c) *Perform any sterilizing surgery, including castration, hysterectomy, oophorectomy, orchiectomy, penectomy, and vasectomy;*
 - (d) *Perform any surgery that artificially constructs tissue having the appearance of genitalia differing from the minor's sex, including metoidioplasty, phalloplasty, and vaginoplasty; or*
 - (e) *Remove any healthy or non-diseased body part or tissue.*
- (3) *The prohibitions of subsection (2) this section shall not limit or restrict the provision of services to:*
- (a) *A minor born with a medically verifiable disorder of sex development, including external biological sex characteristics that are irresolvably ambiguous;*
 - (b) *A minor diagnosed with a disorder of sexual development, if a health care provider has determined, through genetic or biochemical testing, that the minor does not have a sex chromosome structure, sex steroid hormone production, or sex steroid hormone action, that is normal for a biological male or biological female; or*

- (c) *A minor needing treatment for an infection, injury, disease, or disorder that has been caused or exacerbated by any action or procedure prohibited by subsection (2) of this section.*
- (4) *If a licensing or certifying agency for health care providers finds, in accordance with each agency's disciplinary and hearing process, that a health care provider who is licensed or certified by the agency has violated subsection (2) of this section, the agency shall revoke the health care provider's licensure or certification.*
- (5) *Any civil action to recover damages for injury suffered as a result of a violation of subsection (2) of this section may be commenced before the later of:*
 - (a) *The date on which the person reaches the age of thirty (30) years; or*
 - (b) *Within three (3) years from the time the person discovered or reasonably should have discovered that the injury or damages were caused by the violation.*
- (6) *If a health care provider has initiated a course of treatment, for a minor, that includes the prescription or administration of any drug or hormone prohibited by subsection (2) of this section and if the health care provider determines and documents in the minor's medical record that immediately terminating the minor's use of the drug or hormone would cause harm to the minor, the health care provider may institute a period during which the minor's use of the drug or hormone is systematically reduced.*

➔Section 5. Whereas situations currently exist in which the privacy rights of students are violated, an emergency is declared to exist, and Sections 1 to 3 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Veto Overridden March 29, 2023.

CHAPTER 133

(SB 7)

AN ACT relating to the administration of payroll systems and declaring an emergency.

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

➔Section 1. KRS 336.180 is amended to read as follows:

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

- (1) *"Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his or her consent for any other person to receive contributions or make expenditures with a view to bringing about his or her nomination or election to public office, except federal office;*
- (2) *"Committee" includes the following:*
 - (a) *"Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, but does not include an entity established solely by a candidate which is managed solely by a candidate and a campaign treasurer and whose name is generic in nature, such as "Friends of (the candidate)," and does not reflect that other persons have structured themselves as a committee, designated officers of the committee, and assigned responsibilities and duties to each officer with the purpose of managing a campaign to support or oppose a candidate in an election;*
 - (b) *"Caucus campaign committee," which means members of any caucus groups who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, or a committee in Kentucky or in any other state. Caucus campaign committees include but are not limited to:*
 - 1. *The House Democratic caucus campaign committee;*

2. *The House Republican caucus campaign committee;*
 3. *The Senate Democratic caucus campaign committee;*
 4. *The Senate Republican caucus campaign committee; and*
 5. *Subdivisions of the state executive committee of a minor political party, which serve the same function as the above-named committees, as determined by administrative regulations promulgated by the Kentucky Registry of Election Finance;*
- (c) *"Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or ballot measure if that committee receives or expends money in excess of one thousand dollars (\$1,000);*
- (d) *"Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a campaign committee, political issues committee, inaugural committee, caucus campaign committee, or a party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, which functions on a regular basis throughout the year;*
- (e) *An executive committee of a political party; and*
- (f) *"Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;*
- (3) *"Contributing organization" means a group which merely contributes to candidates, slates of candidates, campaign committees, caucus campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself;*
- (4) *"Contribution" means any:*
- (a) *Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his or her agent, a slate of candidates, its authorized agent, a committee, or contributing organization but shall not include a loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his or her agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121.150;*
 - (b) *Payment by any person other than the candidate, his or her authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;*
 - (c) *Goods, advertising, or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or*
 - (d) *Payment by any person other than a candidate, his or her authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;*
- (5) *"Election" means any primary, regular, or special election. Each primary, regular, or special election shall be considered a separate election;*
- (6) *"Electioneering communications" means:*

(a) *Any communication broadcast by television or radio, printed in a newspaper or on a billboard, directly mailed or delivered by hand to personal residences, or in telephone calls made to personal residences, or otherwise distributed that:*

1. *Unambiguously refers to any candidate for any state, county, city, or district office, or to any ballot measure;*
2. *Is broadcast, printed, mailed, delivered, made, or distributed within thirty (30) days before a primary election or sixty (60) days before a general election; and*
3. *Is broadcast to, printed in a newspaper, distributed to, mailed to or delivered by hand to, in telephone calls made to, or otherwise distributed to an audience that includes members of the electorate for such public office or the electorate associated with the ballot containing the ballot measure.*

(b) *"Electioneering communications" does not include:*

1. *Any news articles, editorial endorsements, opinions or commentary, writings, or letters to the editor printed in a newspaper, magazine, or other periodical not owned by or controlled by a candidate, committee, or political party;*
2. *Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate, committee, or political party;*
3. *Any communication by persons made in the regular course and scope of their business or any communication made by a membership organization solely to members of such an organization and their families;*
4. *Any communication that refers to any candidate only as part of the popular name of a bill or statute; or*
5. *A communication that constitutes a contribution or independent expenditure as defined in this section;*

~~{(1) The term "labor organization" means any organization of any kind, or any agency or employee representation committee, association or union which exists for the purpose, in whole or in part, of dealing with employers concerning wages, rates of pay, hours of employment or conditions of work, or other forms of compensation;}~~

~~{(7){(2)} "Employer" [The term "employer"] means all persons, firms, associations, corporations, public employers, public school employers, and public colleges, universities, institutions, and education agencies;{ and}~~

(8) *"Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office, or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents;*

(9) *"Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them;*

(10) *"Labor organization" means any organization of any kind, or any agency or employee representation committee, association or union which exists for the purpose, in whole or in part, of dealing with employers concerning wages, rates of pay, hours of employment or conditions of work, or other forms of compensation. Except, for the purposes of Section 1, 2, 3, 4, 5, 6, 7, or 8 of this Act, "labor organization" shall not include organizations which primarily represent public employees working in the protective vocations of active law enforcement officer, jail and corrections officer, or active fire suppression or prevention personnel;*

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

(11) *"Political activities" means any contribution or independent expenditure made:*

- (a) *To any committee;*

- (b) *To any contributing organization;*
 - (c) *To any candidate;*
 - (d) *To any slate of candidates;*
 - (e) *To any fundraiser;*
 - (f) *For any electioneering communications;*
 - (g) *For any testimonial affair;*
 - (h) *In any manner intended to influence the outcome of any election;*
 - (i) *In any manner intended to otherwise promote or support the defeat of any:*
 - 1. *Candidate;*
 - 2. *Slate of candidates; or*
 - 3. *Ballot measure; or*
 - (j) *In any manner intended to advance any position held by any person or entity other than the public employee regarding any:*
 - 1. *Election;*
 - 2. *Candidate;*
 - 3. *Slate of candidates; or*
 - 4. *Ballot measure;*
- (12) *"Public employee" means an employee of a "public agency" as that term is defined in KRS 61.870;*
- (13) *"Slate of candidates" means:*
- (a) *Between the time a certificate or petition of nomination has been filed for a candidate for the office of Governor under KRS 118.365 and the time the candidate designates a running mate for the office of Lieutenant Governor under KRS 118.126, a slate of candidates consists of the candidate for the office of Governor; and*
 - (b) *After that candidate has designated a running mate under KRS 118.126, that same slate of candidates consists of that same candidate for the office of Governor and the candidate's running mate for the office of Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates; and*
- (14) *"Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a state, city, county, or district political office designed to raise funds for the purpose of influencing the outcome of an election, otherwise promoting support for, or the defeat of, any candidate, slate of candidates, or ballot measure.*

➔Section 2. KRS 336.134 is amended to read as follows:

A public employer shall not deduct from the wages, earnings, or compensation of any public employee for:

- (1) *Any dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization; or*
- (2) *Political activities*

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

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

A public employer shall not assist, directly or indirectly, any labor organization, person, or other legal entity with the collection of dues, fees, assessments, or other charges, or political activities or personal information related to those activities.

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

Sections 1, 2, and 3 of this Act shall not apply to any deductions from a public employee's wages, compensation, or earnings made by the public employer in accordance with any joint wage agreement or collective bargaining contract entered into, opted into, modified, renewed, or extended prior to the effective date of this Act. However, any joint wage agreement or collective bargaining contract entered into, opted into, modified, renewed, or extended after the effective date of this Act, as well as any deductions made to a public employee's wages, compensation, or earnings made in accordance with those joint wage agreements or collective bargaining contracts or otherwise made after the effective date of this Act, shall comply with Sections 2 and 3 of this Act.

➔Section 5. KRS 336.135 is amended to read as follows:

- (1) As used in this section, "employee" means any person employed by or suffered or permitted to work for a public or private employer, except "employee" shall not mean any person covered by the Federal Railway Labor Act and the National Labor Relations Act.
- (2) An employee shall not be enrolled as a member of a labor organization unless the employee has affirmatively requested membership in writing.
- (3) A sum shall not be withheld from the earnings of any employee for the purpose of paying union dues or other fees paid by members of a labor organization or employees who are non-members except upon the written or electronic authorization of the employee member or employee non-member, ***unless the employer is a public employer, in which case Section 2 of this Act applies to that employer.***
- (4) The requirements in this section shall not be waived by any member or non-member of a labor organization, nor required to be waived as a condition of obtaining or maintaining employment.
- (5) Signing or refraining from signing the authorization set forth in subsections (2) and (3) of this section shall not be made a condition of obtaining or maintaining employment.
- (6)
 - (a) A labor organization shall maintain financial records substantially similar to and no less comprehensive than the records required to be maintained under 29 U.S.C. sec. 431(b).
 - (b) These records shall be kept in a searchable electronic format and provided to every employee it represents.
 - (c) The records and the data or summary by which the records can be verified, explained, or clarified shall be kept for a period of not less than five (5) years.
 - (d) A labor organization composed of public employees shall transmit financial records detailing the labor organization's quarterly expenses to its members on an annual basis.***
- (7) This section shall not apply to any agreement between employers and employees or labor organizations entered into before January 9, 2017, but any such agreement entered into, opted in, renewed, or extended on or after January 9, 2017, and which violates this section shall be unlawful and void.
- (8) This section shall be known as the "Paycheck Protection Act."

➔Section 6. KRS 161.158 is amended to read as follows:

- (1)
 - (a) Each district board of education may form its employees into a group or groups or recognize existing groups for the purpose of obtaining the advantages of group life, disability, medical, and dental insurance, or any group insurance plans to aid its employees including the state employee health insurance group as described in KRS 18A.225 to 18A.2287, as long as the employees continue to be employed by the board of education. Medical and dental group insurance plans obtained under authority of this section may include insurance benefits for the families of the insured group or groups of employees. Any district board of education may pay all or part of the premium on the policies, and may deduct from the salaries of the employees that part of the premium which is to be paid by them and may contract with the insurer to provide the above benefits. As permitted in KRS 160.280(4), board members shall be eligible to participate in any group medical or dental insurance provided by the district for employees.
 - (b) If a district board of education participates in the state employee health insurance program, as described in KRS 18A.225 to 18A.2287, for its active employees and terminates participation and there is a state appropriation approved by the General Assembly for the employer's contribution for active employees' health insurance coverage, neither the board of education nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.

- (c) If a district board of education participates in the state employee health insurance program as described in KRS 18A.225 to 18A.2287 for its active employees, all district employees who are required to be offered health insurance coverage for purposes of, and in accordance with, the federal Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, shall be eligible for the state-funded contribution appropriated by the General Assembly for the employer's contribution for active employees' health insurance coverage.
- (2) (a) Each district board of education shall adopt policies or regulations which will provide for:
1. a. Deductions from salaries of its employees or groups of employees whenever a request is presented to the board by said employees or groups thereof.
 - b. The deductions shall be made from salaries earned in at least eight (8) different pay periods.
 - c. The deductions may be made for, but are not limited to, membership dues, tax-sheltered annuities, and group insurance premiums.
 - d. The district board is prohibited from deducting membership dues of an employee organization, membership organization, or labor organization~~[without the express written consent of the employee. Express written consent of the employee may be revoked in writing by the employee at any time]~~. This provision shall apply to contracts entered into, opted in, extended or renewed on or after January 9, 2017.
 - e. With the exception of membership dues, the board shall not be required to make more than one (1) remittance of amounts deducted during a pay period for a separate type of deduction; and
 2. Deductions from payments for the per diem and actual expenses provided under KRS 160.280(1) to members of the district board of education whenever a request is presented by a board member to the board. The deductions may be made for but not be limited to membership dues, health insurance purchases, scholarship funds, and contributions to a political action committee.
- (b) The deductions under paragraph (a)1. and 2. of this subsection shall be remitted to the appropriate organization or association as specified by the employees within thirty (30) days following the deduction, provided the district has received appropriate invoices or necessary documentation.
- (c) Health insurance, life insurance, and tax-sheltered annuities shall be interpreted as separate types of deductions. When amounts have been correctly deducted and remitted by the board, the board shall bear no further responsibility or liability for subsequent transaction.
- (3) Payments and deductions made by the board of education under the authority of this section are presumed to be for services rendered and for the benefit of the common schools, and the payments and deductions shall not affect the eligibility of any school system to participate in the public school funding program as established in KRS Chapter 157.

➔Section 7. KRS 164.365 is amended to read as follows:

- (1) Anything in any statute of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries, and compensation payable out of the State Treasury or otherwise, promotions, and official relations of all employees of Eastern Kentucky University, Western Kentucky University, Murray State University, Northern Kentucky University, and Morehead State University, as provided in KRS 164.350 and 164.360, and of Kentucky State University and the Kentucky Community and Technical College System, shall be under the exclusive jurisdiction of the respective governing boards of each of the institutions named.
- (2) The board of regents for the Kentucky Community and Technical College System shall develop personnel rules for the governing of its members, officers, agents, and employees by June 30, 1998. The board shall adopt interim policies to govern employees hired from July 1, 1997, until the permanent rules are adopted.
- (3) Upon receipt of a written authorization from an employee of the Kentucky Community and Technical College System, the board shall deduct dues from the employee's paycheck for employee membership organizations, ***except that no deduction shall be made for labor organization membership dues, fees, assessments, or contributions for political activities.*** Dues shall be deducted at a rate established by the organization, and shall be discontinued upon written notification by an employee to both the system and the employee organization. On a quarterly basis, the Kentucky Community and Technical College System shall provide to each employee

membership organization an updated list that includes the names and home addresses of the employees who are having dues deducted from their paychecks for the purpose of maintaining membership in that organization.

➔Section 8. 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.
 - (e) *Any public employer or labor organization that violates Section 1, 2, 3, 4, 5, 6, or 7 of this Act shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense.*
- (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 9. Whereas the Commonwealth has a compelling and immediate interest in avoiding the appearance that public resources are being used to support partisan political activity, an emergency is declared to exist, and this Act takes effect upon passage and approval by the Governor, or upon its otherwise becoming a law.

Veto Overridden March 29, 2023.

CHAPTER 134

(SB 107)

AN ACT relating to the state management of education and declaring an emergency.

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

➔Section 1. KRS 156.148 is amended to read as follows:

- (1) ~~Effective January 1, 1991,~~ The commissioner of education shall be the chief state school officer. He *or she* shall possess the professional qualifications determined by the Kentucky Board of Education as appropriate for the office.
- (2) The commissioner shall:
 - (a) Be appointed *or reappointed* by the Kentucky Board of Education, *subject to Senate confirmation in accordance with KRS 11.160*;

- (b) Serve *for a term not to exceed four (4) years, unless removed by the Kentucky Board of Education*~~at the pleasure of the board;~~; and
 - (c) Receive compensation as set by the board, the provisions of KRS 64.640 notwithstanding.
- (3) The commissioner of education shall be the executive and administrative officer of the Kentucky Board of Education in its administration of all educational matters and functions placed under its management and control. He *or she* shall carry out all duties assigned to him *or her* by law; shall execute under the direction of the state board the educational policies, orders, directives, and administrative functions of the board; and shall direct the work of all persons employed in the Department of Education.
- (4) The commissioner of education shall be reimbursed for all actual and necessary traveling expenses incurred by him *or her* in the performance of his *or her* duties.

➔Section 2. 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 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) ***Ex officio and other nonvoting members shall not be represented by proxy at any meeting of the board.***
- (4) 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.
- ~~(5)~~(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.
- ~~(6)~~(5) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership.

- (7)~~(6)~~ The members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.
- (8)~~(7)~~ The commissioner of education shall serve as the executive secretary to the board.
- (9)~~(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 3. Whereas ensuring consistent quality in the state management of education is of the utmost priority for the General Assembly, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Veto Overridden March 29, 2023.

CHAPTER 135

(SB 122)

AN ACT relating to the Finance and Administration Cabinet and declaring an emergency.

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

→Section 1. KRS 56.100 is amended to read as follows:

- (1) (a) Each fiscal year the State Treasurer shall deduct from any funds in the Treasury payable to an agency for the care and maintenance of public buildings or property~~;~~ an amount equal to the premiums certified to him or her as chargeable against that agency. The amount so debited shall be credited to an account kept by the State Treasurer and known as the state fire and tornado insurance fund.
- (b) ***On and after the effective date of this Act until June 30, 2025, no premium shall be charged on any one (1) subject of risk upon a valuation of more than ten million dollars (\$10,000,000), unless the Office of the Controller in the Finance and Administration Cabinet has contracted for reinsurance that limits the liability of the fund to ten million dollars (\$10,000,000) upon that risk.***
- (c) ***On and after July 1, 2025, no premium shall be charged on any one (1) subject of risk upon a valuation of more than one million dollars (\$1,000,000), unless the Office of the Controller in the Finance and Administration Cabinet has contracted for reinsurance that limits the liability of the fund to one million dollars (\$1,000,000) upon such subject of risk.***
- (2) The Office of the Controller in the Finance and Administration Cabinet shall prescribe a certificate setting forth the terms and conditions of coverage under the state fire and tornado insurance fund. Different forms of certificates may be used for different risks. Such certificates may contain such terms and conditions as the Office of the Controller in the Finance and Administration Cabinet may prescribe, including but not limited to a deductible, in order that there be fair allocation of significant losses and the elimination of unnecessary costs in administering the state fire and tornado insurance fund.

→Section 2. KRS 56.120 is amended to read as follows:

- (1) When the amount of damage has been determined, the State Treasurer shall debit the account of the state fire and tornado insurance fund by that amount and credit with an equal amount the account of the agency that has control or custody of the property damaged, and upon warrant from the Finance and Administration Cabinet, the Treasurer shall pay to the agency the amount so credited to it, for the purpose of repairing the damage or reconstructing or replacing the damaged or destroyed property. If the agency deems it impracticable or undesirable to use the money for repair, reconstruction, or replacement of the property damaged or destroyed, it may, with the approval of the Finance and Administration Cabinet, and subject to the provisions of KRS 56.491, expend said funds for the acquisition, repair, construction, or reconstruction of property similar to the property damaged or destroyed.

- (2) *On and after the effective date of this Act until June 30, 2025, no debit, credit, or payment made on account of the damage to any one (1) subject of risk, by any one (1) loss, shall be in excess of ten million dollars (\$10,000,000), unless the Office of the Controller in the Finance and Administration Cabinet has effected reinsurance upon that risk to limit the liability of the state fire and tornado insurance fund to ten million dollars (\$10,000,000), and unless the excess over this amount has actually been paid into the fund by the reinsuring company or companies.*
- (3) *On and after July 1, 2025, no debit, credit, or payment made on account of the damage to any one (1) subject of risk, by any one (1) loss, shall be in excess of one million dollars (\$1,000,000), unless the Office of the Controller in the Finance and Administration Cabinet has effected reinsurance upon the subject of risk such as to limit the liability of the state fire and tornado insurance fund to one million dollars (\$1,000,000), and unless the excess over this amount has actually been paid into the fund by the reinsuring company or companies.*

➔Section 3. KRS 56.160 is amended to read as follows:

- (1) *On or after the effective date of this Act until June 30, 2025, the Office of the Controller in the Finance and Administration Cabinet may contract with any responsible fire and tornado insurance or reinsurance company authorized to do business in Kentucky to reinsure any subject of risk of which the total valuation has been fixed at over ten million dollars (\$10,000,000) in such a way as to limit the net liability of the state fire and tornado insurance fund with respect to that risk to ten million dollars (\$10,000,000). The premium for reinsurance shall be paid out of the state fire and tornado insurance fund, on warrant of the cabinet.*
- (2) *On or after July 1, 2025, the Office of the Controller in the Finance and Administration Cabinet may contract with any responsible fire and tornado insurance or reinsurance company authorized to do business in Kentucky to reinsure any subject of risk of which the total valuation has been fixed at over one million dollars (\$1,000,000) in such a way as to limit the net liability of the state fire and tornado insurance fund with respect to such subject of risk to one million dollars (\$1,000,000). The premium for reinsurance shall be paid out of the state fire and tornado insurance fund, on warrant of the cabinet.*

➔Section 4. KRS 56.180 is amended to read as follows:

- (1) *On or after the effective date of this Act until June 30, 2025, if at the end of any fiscal year the moneys and securities to the credit of the state fire and tornado insurance fund exceed one hundred million dollars (\$100,000,000), that excess shall be transferred to the general fund.*
- (2) *On or after July 1, 2025, if at the end of any fiscal year the moneys and securities to the credit of the state fire and tornado insurance fund exceed ten million dollars (\$10,000,000), any such excess shall be transferred to the general fund.*
- (3)~~(2)~~ The moneys and securities to the credit of the state fire and tornado insurance fund shall not be used for any purpose unrelated to fund operations.

➔Section 5. KRS 56.463 is amended to read as follows:

The cabinet shall have the power and duty:

- (1) To determine the comparative needs and demands of the various state agencies for acquiring real estate and for building projects;
- (2) To purchase or otherwise acquire all real property determined to be needed for state use and upon the approval of the secretary of the Finance and Administration Cabinet as to the determination of need and as to the action of purchase or other acquisition, except as provided in KRS Chapters 175, 176, 177, and 180. All such acquisitions of real property or interests therein shall be made in accordance with KRS 45A.045;
- (3) To sell or otherwise dispose of all property, including any interest in real property, of the state that is not needed or has become unsuitable for public use or would be more suitable consistent with the public interest for some other use as determined by the secretary of the Finance and Administration Cabinet. All such sales or other disposition shall be made in accordance with KRS 45A.045;
- (4) (a) To control the use of any real property owned or otherwise held by the Commonwealth, or any state agency, and to determine for what periods of time and for what purposes any state agency may use the same, including the agency for whose use it was initially acquired or improved, and to determine what appropriate uses shall be made of such real property during periods that the cabinet finds the same is not required for the purposes of any particular state agency. The cabinet shall allocate to the General Assembly and the Legislative Research Commission ~~all the amount of~~ space within the New State Capitol Annex ~~[, currently assigned to the legislative branch]~~ in the basement and on the first, **second,**

~~third, and fourth floors~~ [floor totaling forty nine thousand six hundred thirty eight (49,638) square feet; approximately twenty four thousand four hundred fifty two (24,452) square feet on the second floor from an imaginary line running north and south down the center of the center wing hallway of the building and all space to the east of this line], excluding:

1. Mechanical areas, public entrances, *vestibules*, and restrooms; *and*
2. *The following additional space, as allocated on January 1, 2023:*
 - a. *Areas in the basement occupied by the Kentucky State Police and Facilities Security;*
 - b. *Areas in the basement operated as the snack bar and cafeteria, as well as storage areas related to the operation of the snack bar and cafeteria;*
 - c. *The area in the basement operated as a nurse's station;*
 - d. *The area in the basement used as an automated teller machine (ATM);*
 - e. *The office space in the basement occupied by the Secretary of State;*
 - f. *Utility spaces in the basement west wing and east wing northernmost hallways occupied by janitorial, maintenance, and mechanical staff;*
 - g. *The loading dock in the rear of the annex basement, along with the office space immediately adjacent to the loading dock on the back wall of the annex, provided that the General Assembly and the Legislative Research Commission shall be given access to and use of the loading dock and the receiving areas adjacent to the loading dock; and*
 - h. *Office and studio space on the first floor currently occupied and used for broadcasting purposes by Kentucky Educational Television* [; approximately twenty three thousand nine hundred forty (23,940) square feet on the third floor from an imaginary line running north and south down the center of the center wing hallway of the building and all space to the east of this line, excluding mechanical areas, public entrances, and restrooms; approximately twenty two thousand fifty six (22,056) square feet on the fourth floor from an imaginary line running north and south down the center of the center wing hallway of the building and all space to the east of this line, excluding mechanical areas, public entrances, and restrooms].

All space assigned to the legislative branch and plans, uses, furnishings, and equipment therefor are subject to the specific approval of the Legislative Research Commission;

- (b) All additional space in the New State Capitol Annex, not specifically allocated for use by the General Assembly and the Legislative Research Commission in paragraph (a) of this subsection, shall be allocated for the use of the legislative branch, with occupancy by the legislative branch to be determined by the Legislative Research Commission, *upon a* [~~Until the Legislative Research Commission, by~~] vote of a majority of ~~the~~ [its] entire membership *of the Legislative Research Commission* [~~determines that the legislative branch shall occupy all or part of such additional space in the Capitol Annex, the cabinet shall continue to determine the occupancy of such additional space~~];
- (c) [Forty percent (40%) of the floor space provided by paragraph (a) of this subsection for use by the legislative branch shall be assigned for the use of the Senate. Sixty percent (60%) of the floor space provided by paragraph (a) of this subsection for use by the legislative branch shall be assigned for the use of the House of Representatives; and
- (d) ~~]~~ *In order for the General Assembly and the Legislative Research Commission to efficiently utilize the space provided by paragraphs (a) and (b) of this subsection, the cabinet shall enter into a memorandum of understanding with the Legislative Research Commission on or about February 1, 2024, and as often as every two (2) years thereafter at the request of the Legislative Research Commission, to establish tenancy terms, including but not limited to building maintenance, repairs, renovations, and upgrades; facility security; janitorial services; and applicable rental and utilities rates. The Legislative Research Commission shall at any time, and upon at least sixty (60) days' notice, be authorized to discontinue the cabinet's provision of janitorial services for the New State Capitol Annex and to enter into a separate contract for the provision of those services, with the applicable rental and utilities rates to be proportionately reduced to reflect that separate contract, provided that the Legislative Research Commission may also at any time, and upon at least sixty (60)*

days' notice, elect to have the cabinet continue or reinstate the provision of those janitorial services at the cabinet's expense;

- (d) *For the purposes of this subsection, real property shall include the parking areas adjacent to the New State Capitol and the New State Capitol Annex, and the cabinet shall allocate to the General Assembly and the Legislative Research Commission all parking spaces within the Capitol campus parking garage, all parking spaces in the east, south, and west parking lots of the New State Capitol Annex, and all parking spaces in the west parking lot of the New State Capitol, except for those spaces in the west parking lot of the New State Capitol allocated, as of January 1, 2023, to the Supreme Court of Kentucky, the Lieutenant Governor, the Attorney General, and the Secretary of State. Any further allocation of any parking spaces allocated pursuant to this paragraph shall be within the sole discretion of the Legislative Research Commission or its designee; and*
- (e) To determine the housing and furnishings needs of the various state agencies located in Frankfort and to establish and put into effect a permanent program for housing them. Subject to paragraphs (a) and (b) of this subsection, the cabinet is also authorized and directed to allocate office space and furnishings in existing public buildings located in Frankfort, exclusive of the third and fourth floors of the New State Capitol and the space in the New State Capitol Annex allocated to the legislative branch, according to the needs of the various agencies. When necessary, the cabinet is authorized to provide additional office space and furnishings in Frankfort under any building program the cabinet deems most advisable and economical for the state. The permanent housing program shall include provisions for housing the General Assembly and its related agencies, including the Legislative Research Commission, and its subcommittees, the executive offices, the Supreme Court and the clerk of the Supreme Court, the Department of Law and the law library, in the New State Capitol, provided the General Assembly and the Legislative Research Commission shall have complete control and exclusive use of the third and fourth floors of the New State Capitol and shall have exclusive use of the space in the New State Capitol Annex allocated to them under paragraphs (a) and (b) of this subsection. If there be any additional space in the Capitol, it shall be assigned to agencies whose activities are most closely related to the agencies directed to be located permanently in the Capitol;
- (5) To acquire, by condemnation in the manner provided in the Eminent Domain Act of Kentucky, any real estate necessary for use by the state or by any state agency, when the cabinet is unable to agree with the owner thereof on a price for such real estate;
- (6) To lease any real property, or any interest in such real property, owned by the state or any agency thereof, in accordance with KRS 45A.045;
- (7) To provide for and adopt plans and specifications as may be necessary, to provide adequate public notice for and receive bids for any expenditures proposed to be made, to award contracts for the purpose authorized, to supervise construction and make changes and revisions in plans and specifications or in construction as may become necessary, and generally to do any and all other things as may become necessary or expedient in order to effectively fulfill and carry out the purposes of this chapter, including the right to employ clerks, engineers, statisticians, architects, or other persons required to be employed in order to fulfill the functions of the Commonwealth relating to state property and buildings provided in KRS 56.450 to 56.550; and
- (8) To adopt rules and promulgate administrative regulations as may be necessary to govern the acquisition, control, and disposition of the real property to which this section is applicable.

➔Section 6. Whereas it may be necessary to negotiate upcoming insurance rates for the Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval of the Governor or upon its otherwise becoming a law.

Veto Overridden March 29, 2023.

CHAPTER 136

(SB 37)

AN ACT relating to pharmacists.

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

➔Section 1. KRS 315.191 is amended to read as follows:

- (1) The board is authorized to:
 - (a) Promulgate administrative regulations pursuant to KRS Chapter 13A necessary to regulate and control all matters set forth in this chapter relating to pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale distributors, and manufacturers, to the extent that regulation and control of same have not been delegated to some other agency of the Commonwealth, but administrative regulations relating to drugs shall be limited to the regulation and control of drugs sold pursuant to a prescription drug order. However, nothing contained in this chapter shall be construed as authorizing the board to promulgate any administrative regulations relating to prices or fees or to advertising or the promotion of the sales or use of commodities or services;
 - (b) Issue subpoenas, schedule and conduct hearings, or appoint hearing officers to schedule and conduct hearings on behalf of the board on any matter under the jurisdiction of the board;
 - (c) Prescribe the time, place, method, manner, scope, and subjects of examinations, with at least two (2) examinations to be held annually;
 - (d) Issue and renew all licenses, certificates, and permits for all pharmacists, pharmacist interns, pharmacies, pharmacy technicians, wholesale distributors, and manufacturers engaged in the manufacture, distribution, or dispensation of drugs;
 - (e) Investigate all complaints or violations of the state pharmacy laws and the administrative regulations promulgated by the board, and bring all these cases to the notice of the proper law enforcement authorities;
 - (f) Promulgate administrative regulations, pursuant to KRS Chapter 13A, that are necessary and to control the storage, retrieval, dispensing, refilling, and transfer of prescription drug orders within and between pharmacists and pharmacies licensed or issued a permit by it;
 - (g) Perform all other functions necessary to carry out the provisions of law and the administrative regulations promulgated by the board relating to pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale distributors, and manufacturers;
 - (h) Establish or approve programs for training, qualifications, and registration of pharmacist interns;
 - (i) Assess reasonable fees, in addition to the fees specifically provided for in this chapter and consistent with KRS 61.870 to 61.884, for services rendered to perform its duties and responsibilities, including, but not limited to, the following:
 1. Issuance of duplicate certificates;
 2. Mailing lists or reports of data maintained by the board;
 3. Copies of documents; or
 4. Notices of meetings;
 - (j) Seize any drug or device found by the board to constitute an imminent danger to public health and welfare;
 - (k)
 1. Establish an advisory council to advise the board on *statutes*, administrative regulations, and other matters, within the discretion of the board, pertinent to the *practice of pharmacy and* regulation of pharmacists, pharmacist interns, pharmacy technicians, pharmacies, drug distribution, and drug manufacturing. *The council shall provide recommendations for updating policies and procedures, including administrative regulations relating to the practice of pharmacy.*
 2. The council shall consist of *nine (9) pharmacists broadly representative of the profession of pharmacy. For purposes of this subparagraph, "broadly representative" means the following:*
 - a. *Two (2) pharmacists appointed by the Kentucky Pharmacists Association;*
 - b. *Two (2) pharmacists appointed by the Kentucky Independent Pharmacy Alliance;*

- c. *One (1) pharmacist who practices or specializes primarily in a mail order pharmacy appointed by the Kentucky Pharmacists Association;*
 - d. *One (1) pharmacist who practices or specializes primarily in a long-term care pharmacy appointed by Kentucky Association of Health Care Facilities;*
 - e. *One (1) pharmacist who practices or specializes primarily in a veterinary pharmacy appointed by the Kentucky Pharmacists Association;*
 - f. *One (1) pharmacist who practices or specializes primarily in a hospital pharmacy appointed by the Kentucky Society of Health-System Pharmacists; and*
 - g. *One (1) pharmacist who practices in a specialized pharmacy that solely or mostly provides medication to persons living with serious health conditions requiring complex therapies, appointed by the Kentucky Pharmacists Association.*
3. *Each pharmacist member shall be licensed by the board, a resident of Kentucky, and employed for at least two (2) consecutive years in the practice area he or she represents.*
 4. *Members shall serve terms of up to four (4) years and may serve two (2) consecutive terms, but shall not serve on the council for more than two (2) consecutive terms. Members may continue to serve until their successors are appointed.*
 5. *Members shall be confirmed by roll call vote of the board at a meeting conducted in accordance with the Open Meetings Act, KRS 61.805 to 61.850*~~nine (9) members selected by the board for terms of up to four (4) years. No member shall serve on the council for more than eight (8) years. Membership of the council shall include nine (9) individuals broadly representative of the profession of pharmacy and the general public. Members shall be selected by the board from a list of qualified candidates submitted by the association, society, or other interested parties}; and~~
- (1) Promulgate administrative regulations establishing the qualifications that pharmacy technicians are required to attain prior to engaging in pharmacy practice activities outside the immediate supervision of a pharmacist.
 - (2) The board shall have other authority as may be necessary to enforce pharmacy laws and administrative regulations of the board including, but not limited to:
 - (a) Joining or participating in professional organizations and associations organized exclusively to promote improvement of the standards of practice of pharmacy for the protection of public health and welfare or facilitate the activities of the board; and
 - (b) Receiving and expending funds, in addition to its biennial appropriation, received from parties other than the state, if:
 1. The funds are awarded for the pursuit of a specific objective which the board is authorized to enforce through this chapter, or which the board is qualified to pursue by reason of its jurisdiction or professional expertise;
 2. The funds are expended for the objective for which they were awarded;
 3. The activities connected with or occasioned by the expenditure of the funds do not interfere with the performance of the board's responsibilities and do not conflict with the exercise of its statutory powers;
 4. The funds are kept in a separate account and not commingled with funds received from the state; and
 5. Periodic accountings of the funds are maintained at the board office for inspection or review.
 - (3) In addition to the sanctions provided in KRS 315.121, the board or its hearing officer may direct any licensee, permit holder, or certificate holder found guilty of a charge involving pharmacy or drug laws, rules, or administrative regulations of the state, any other state, or federal government, to pay to the board a sum not to exceed the reasonable costs of investigation and prosecution of the case, not to exceed twenty-five thousand dollars (\$25,000).
 - (4) In an action for recovery of costs, proof of the board's order shall be conclusive proof of the validity of the order of payment and any terms for payment.

Veto Overridden March 29, 2023.

CHAPTER 137

(SB 65)

AN ACT relating to deficient administrative regulations and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly finds that 803 KAR 1:006, Employer-Employee Relationship, was found deficient but became effective notwithstanding the finding of deficiency pursuant to KRS 13A.330, on or after April 14, 2022, and before March 30, 2023, as evidenced by records of the Legislative Research Commission.*
- (2) *Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, the administrative regulation referenced in subsection (1) of this section, including any subsequently filed amendment, shall be null, void, and unenforceable as of the effective date of this Act.*
- (3) *Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, the administrative body shall be prohibited from promulgating an administrative regulation that is identical to, or substantially the same as, the administrative regulation referenced in subsection (1) of this section for a period beginning on January 3, 2023, and concluding on June 1, 2024.*
- (4) *The administrative regulation referenced in subsection (1) of this section shall be available to the public, in the office of the Legislative Research Commission's regulations compiler.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly finds that proposed emergency and ordinary amendments of the following administrative regulations were found deficient pursuant to KRS 13A.030, on or after April 14, 2022, and before March 30, 2023, as evidenced by the records of the Legislative Research Commission:*
 - (a) *907 KAR 1:026, Dental Services' Coverage Provisions and Requirements;*
 - (b) *907 KAR 1:038, Hearing Program Coverage Provisions and Requirements; and*
 - (c) *907 KAR 1:632, Vision Program Coverage Provisions and Requirements.*
- (2) *Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding:*
 - (a) *The proposed emergency amendments referenced in subsection (1) of this section shall be null, void, and unenforceable as of the effective date of this Act; and*
 - (b)
 1. *If the proposed ordinary amendments referenced in subsection (1) of this section have not been adopted on or before the effective date of this Act, the proposed ordinary amendments shall expire as of the effective date of this Act; or*
 2. *If the proposed ordinary amendments referenced in subsection (1) of this section have been adopted on or before the effective date of this Act, the administrative regulations, including any subsequently filed amendments, shall be null, void, and unenforceable as of the effective date of this Act.*
- (3) *Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, the administrative body shall be prohibited from promulgating administrative regulations that are identical to, or substantially the same as, the proposed amendments referenced in subsection (1) of this section for a period beginning on January 3, 2023, and concluding on June 1, 2024.*
- (4) *The proposed amendments referenced in subsection (1) of this section shall be available to the public, in the office of the Legislative Research Commission's regulations compiler.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly finds that the proposed emergency amendment of 201 KAR 2:380, Board Authorized Protocols, was found deficient pursuant to KRS 13A.030, on or after April 14, 2022, and before March 30, 2023, as evidenced by the records of the Legislative Research Commission.*
- (2) *Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, the proposed emergency amendment referenced in subsection (1) of this section shall be null, void, and unenforceable as of the effective date of this Act.*
- (3) *Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, the administrative body shall be prohibited from promulgating an administrative regulation that is identical to, or substantially the same as, the proposed emergency amendment referenced in subsection (1) of this section for a period beginning on January 3, 2023, and concluding on June 1, 2024.*
- (4) *The proposed emergency amendment referenced in subsection (1) of this section shall be available to the public, in the office of the Legislative Research Commission's regulations compiler.*

➔Section 4. The Department for Medicaid Services shall reimburse providers utilizing the fee schedule in effect as of January 1, 2023, for services rendered or initiated prior to the effective date of this Act. Nothing in Section 2 of this Act shall be construed to prohibit or prevent the Department for Medicaid Services from covering the services that were initiated prior to the effective date of this Act.

➔Section 5. Nothing in Section 2 of this Act shall be construed to prohibit or prevent the Department for Medicaid Services from increasing reimbursement rates after the effective date of this Act for the dental, hearing, and vision services that were covered before January 1, 2023.

➔Section 6. Whereas it is crucial that the Commonwealth's regulatory policy reflect the statutory intent of the General Assembly, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Veto Overridden March 29, 2023.

CHAPTER 138

(SB 226)

AN ACT relating to environmental permitting.

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

➔SECTION 1. A NEW SECTION OF SUBCHAPTER 16 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *When issuing permits under Section 3 of this Act for discharges into waters designated as outstanding state resource waters due to the water's support of federally threatened and endangered species of aquatic organisms, the cabinet shall, to the extent allowable under this chapter and the federal Water Pollution Control Act, 33 U.S.C. sec. 1251 et seq.:*
 - (a) *Presume that water quality will be maintained and protected if the applicant complies with the technology-based effluent limitations for the point source category for the industry in which the permit applicant operates or with any species-specific protection measures imposed on the applicant's operation by any other state or federal agency in any other permit, approval, or review applicable to the operation for which the permit under Section 3 of this Act is sought;*
 - (b) *In determining whether lowering of water quality or habitat modification will have an adverse effect on the threatened or endangered species that the water supports, give substantial weight to any evidence submitted by the permit applicant indicating that discharges from similar operations have not caused a material decrease in the overall number of the same or similar threatened or endangered species of aquatic organisms;*
 - (c) *Not impose any conditions that are more stringent than those required by the United States Fish and Wildlife Service to protect any particular threatened or endangered species of aquatic organism or aquatic habitat with respect to the discharge or operation; and*

(d) *In the absence of any restrictions, conditions, or limitations imposed on the discharge by the United States Fish and Wildlife Service, presume that compliance with numeric water quality standards applicable to the discharge shall constitute compliance with narrative water quality standards applicable to outstanding state resource waters that support federally recognized threatened or endangered species.*

(2) *The cabinet shall clearly document its compliance with the requirements of subsection (1) of this section in the fact sheet for the permit. Notwithstanding any provision of law to the contrary, if the cabinet fails to clearly and adequately document its compliance with the requirements of subsection (1) of this section, any term, limitation, condition, or other requirement imposed on the permit based on a narrative water quality standard for outstanding state resource waters shall be automatically stayed upon the filing of a petition for administrative hearing related to the permit by the applicant.*

➔Section 2. KRS 224.10-225 is amended to read as follows:

(1) The secretary of the Energy and Environment Cabinet shall facilitate the permitting of:

(a) Coal-fired electric generation plants or industrial energy facilities in the Commonwealth; **and**

(b) *Upon request of the applicant, surface coal mining and reclamation operations in the Commonwealth;*

by developing procedures for one (1) stop shopping for environmental permits.

(2) Upon request by an applicant for environmental permits for an industrial energy facility **or a surface coal mining and reclamation operation**, the secretary, in consultation with the applicant, shall establish specific time periods for actions to be taken in the consideration of its permit applications. The time periods established shall not exceed those adopted by administrative regulations promulgated pursuant to KRS 224.10-220. *Notwithstanding KRS 224.10-420(2), failure by the cabinet to adhere to the time periods established pursuant to this section or established by administrative regulations promulgated pursuant to KRS 224.10-220 shall constitute the making of a final determination of the cabinet, and the applicant, at its election, may:*

(a) *Initiate an action for mandamus, declaratory judgment, or other specific relief in the Circuit Court for the county in which the surface coal mining and reclamation operation is located; or*

(b) *Initiate an administrative hearing under KRS 224.10-420(2).*

(3) *As used in this section, "surface coal mining and reclamation operations" has the same meaning as in KRS 350.010.*

➔Section 3. KRS 224.16-050 is amended to read as follows:

(1) The cabinet may issue federal permits pursuant to 33 U.S.C. sec. 1342(b) of the federal Water Pollution Control Act, ~~{33 U.S.C. sec. 1251 et seq.}~~ subject to the conditions imposed in 33 U.S.C. secs. 1342(b) and 1342(d). The cabinet may issue federal permits pursuant to 33 U.S.C. sec. 1344(e) and (g) of the federal Water Pollution Control Act, 33 U.S.C. ~~sec. 1251 et seq.~~, subject to the conditions imposed in 33 U.S.C. sec. 1344(h), (i), and (j). Any exemptions granted in the issuance of NPDES permits shall be pursuant to 33 U.S.C. secs. 1311, 1312, and 1326(a). The cabinet shall report to the standing committees of jurisdiction over environmental protection, and appropriations and revenue, no later than January 1, 2006, on the costs, personnel requirements, and any statutory or regulatory changes needed to support state assumption of the permitting program under 33 U.S.C. sec. 1344(e) and (g), and the anticipated benefits in permit streamlining and environmental quality from state administration of the program.

(2) (a) The cabinet **shall make certification determinations**~~{may certify}~~ pursuant to 33 U.S.C. sec. 1341 **as to whether**~~{that}~~ applicants for a federal permit for the construction or operation of facilities which may result in a discharge into the waters of the Commonwealth will comply with the applicable provisions of the federal Water Pollution Control Act, ~~{33 U.S.C. sec. 1251 et seq.}~~

(b) *Within thirty (30) calendar days of receipt of an application for certification under paragraph (a) of this subsection, the cabinet shall notify the applicant in writing that the application is complete or that the cabinet requires additional information to process the application. If the cabinet determines that additional information is necessary to process the application, the notice provided pursuant to this paragraph shall clearly set forth the necessary additional information, which the applicant shall provide within thirty (30) calendar days of receiving the notice of incompleteness.*

- (c) *Unless a longer period of time is requested by the applicant, the cabinet shall make a final determination on whether to issue the certification or deny the application within sixty (60) calendar days of notifying the applicant that the application is complete pursuant to paragraph (b) of this subsection.*
- (d) *If the cabinet does not make a final determination within sixty (60) calendar days of a notification of completeness in accordance with paragraph (c) of this subsection, the cabinet shall be considered to have waived certification requirements by the Commonwealth, unless the applicant has voluntarily agreed in writing to a longer review period not to exceed one (1) year from the cabinet's receipt of the initial application.*
- (3) *The certification provided under subsection (2) of this section shall be limited in scope to water quality impacts from the discharge only and shall not include other limitations or constitute a review of the proposed activity as a whole* ~~[The cabinet shall not undertake either of the actions authorized in subsections (1) or (2) of this section unless the Governor of the Commonwealth has determined that such activity will be in the best interests of the environment and the people of the Commonwealth].~~
- (4) The cabinet shall not impose under any permit issued pursuant to this section any effluent limitation, monitoring requirement, or other condition which is more stringent than the effluent limitation, monitoring requirement, or other condition which would have been applicable under federal regulation if the permit were issued by the federal government. *The cabinet shall not postpone or delay the review of, or condition, delay, or refuse the issuance of, any permit under 33 U.S.C. sec. 1342(b) of the Federal Water Pollution Control Act on the applicant's need for or receipt of any other federal, state, or local permit, certification, license, authorization, or other approval.*
- (5) Nonprofit organizations which have been qualified under Section 501(c)(3) of the Internal Revenue Code and which operate their own treatment facilities and which are designated for capacities less than ten thousand (10,000) gallons per day shall be charged a fee no greater than fifty dollars (\$50) by the cabinet to process a construction permit, nor a fee greater than twenty dollars (\$20) per year for an operating permit for one (1) facility. These fees shall in no case be higher than the fees charged by the cabinet to process permit applications for comparable privately owned facilities. This subsection shall not apply to any school or waterworks owned by a water district, water association, or municipality and established pursuant to KRS Chapters 74 or 106.
- (6) The following activities do not require a permit issued under 33 U.S.C. sec. 1344. The discharge of dredged or fill material:
- (a) From normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor draining, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;
 - (b) For the purpose of maintenance, including emergency reconstruction of recently damaged parts of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, bridge abutments or approaches, and transportation structures;
 - (c) For the purpose of construction or maintenance of farm or stock ponds, irrigation ditches, or the maintenance of drainage ditches;
 - (d) For the purpose of construction of temporary sedimentation basins on a construction site which does not include placement of fill material into the navigable waters; or
 - (e) For the purpose of construction or maintenance of farm roads, forest roads, or temporary roads for moving mining equipment, where the roads are constructed and maintained, in accordance with best management practices, to ensure that flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired, that the reach of the navigable waters is not reduced, and that any adverse effect on the aquatic environment will be minimized.
- (7) Prior to assuming delegated authority from the United States Environmental Protection Agency to administer 33 U.S.C. sec. 1344(e) and (g), the cabinet shall enter into a memorandum of agreement with the United States Department of Agriculture (USDA) regarding wetlands delineation on agricultural lands or lands owned or operated by a USDA program participant. The cabinet shall give the same deference to wetlands delineations made by USDA as would have been given by a federal agency administering 33 U.S.C. sec. 1344(e) and (g).
- (8) The cabinet may establish by regulation a fee for processing permit applications under 33 U.S.C. sec. 1344.

Veto Overridden March 29, 2023.**CHAPTER 139****(SB 241)**

AN ACT relating to the Department of Fish and Wildlife Resources, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. 2022 Ky. Acts ch. 197, sec. 11, is amended to read as follows:

(1) The ***Department of Fish and Wildlife Resources***~~[Finance and Administration Cabinet]~~ is directed to acquire perpetual conservation easements~~[for the benefit of the Department of Fish and Wildlife Resources]~~ on approximately 54,000 acres of real property in Knox, Bell, and Leslie Counties, that was conveyed by Ataya Hardwoods LLC to Cumberland Forest LP, which is a fund established by The Nature Conservancy, by special warranty deeds dated December 17, 2007, and recorded in:

(a) Knox County on December 26, 2007, in deed book D368, pages 615 to 700, and by correction deed dated February 13, 2008, and recorded in Knox County, deed book 369, page 716;

(b) Bell County on December 21, 2007, deed book 339, page 533, and by correction deed dated February 13, 2008, and recorded in Bell County, deed book 340, page 518; and

(c) Leslie County on December 26, 2007, in deed book 177, page 20, and by correction deed dated February 13, 2008, and recorded in Leslie County, deed book 177, page 520.

~~(2) The Finance and Administration Cabinet shall procure outside legal counsel who has real property acquisition expertise and who does not currently have a contract to render legal service to the Commonwealth to advise the Department of Fish and Wildlife Resources on all issues related to the transaction.~~

~~(3)~~ The terms of the conservation easements acquired pursuant to subsection (1) of this section shall protect the Commonwealth from all liability arising from conditions of the properties as they were prior to the acquisition of the conservation easements, including but not limited to conditions that resulted from prior mining, oil and gas drilling, or other natural resource extraction activities.

(3) *Cumberland Forest LP, when transferring a conservation easement to the Department of Fish and Wildlife Resources, shall not be subject to the provisions of KRS 382.850, provided that for any mineral rights severed from the fee title of the property prior to its conveyance to Cumberland Forest LP, the conservation easement states that it shall not operate to limit, preclude, delete, or require waivers for conducting coal mining operations or oil and gas exploration or production activities, including the transportation of coal, oil, or natural gas, on or across the property.*

(4) The cost of the acquisition of the conservation easements directed by subsection (1) of this section shall be paid from ***appropriated state funds***, federal funds, grants, and gifts made available to the Department of Fish and Wildlife Resources. The purchase price shall not exceed \$250 per acre and shall be substantiated by an appraisal paid for by Cumberland Forest LP or The Nature Conservancy. ***The Department of Fish and Wildlife Resources may work with third parties, contractors, or partners to assist in procuring other necessary due diligence required to complete the acquisitions directed by this section.***

(5) The terms of the conservations easements acquired pursuant to subsection (1) of this section shall set forth, in a comprehensive manner, the rights and obligations of the parties.

(6) Acquisition of the conservation easements as provided for in this section shall follow a reasonable time for due diligence and negotiation, but all transactions for the acquisition of conservation easements shall close no later than ***June 30, 2024***~~[18 months after the effective date of this Act]~~.

(7) Notwithstanding KRS 56.040, surveys and plats of lands for which the conservation easements are directed to be acquired under this section shall not be required to be completed prior to closing. However, the Department of Fish and Wildlife Resources and Cumberland Forest LP shall deposit mutually agreeable funds in

escrow accounts to reconcile any differences in the final acreage of the lands once the surveys are completed, which shall be within a reasonable time after closing.

(8) Notwithstanding any provision of law to the contrary, the Department of Fish and Wildlife Resources is authorized to sign all documents necessary to complete any transactions to acquire the conservation easements under this section, including the signing of deeds and any closing documents.

(9) Notwithstanding any provision of law to the contrary, on the effective date of this Act, the Finance and Administration Cabinet shall deliver to the Department of Fish and Wildlife Resources any work product, documents, or other related materials it has prepared or caused to be prepared in performing its due diligence in the acquisition of the conservation easements directed by this section to avoid duplication of efforts and further delays in the acquisition process. Furthermore, the Department of Fish and Wildlife Resources shall have the option, in its sole discretion, to accept via assignment, any contracts the Finance and Administration Cabinet has entered into for the acquisitions directed by this section prior to the effective date of this Act. Contracts not accepted by the Department of Fish and Wildlife Resources shall be canceled by the Finance and Administration Cabinet at its own expense.

➔Section 2. 2022 Kentucky Acts Chapter 199, Part I, Operating Budget, L. Tourism, Arts and Heritage Cabinet, 7. Fish and Wildlife Resources, (4) Kentucky Cumberland Forest Conservation Program, at page 1705, is amended to read as follows:

(4) Kentucky Cumberland Forest Conservation Program: Included in the above General Fund appropriation is a one-time allocation of \$3,875,000 in fiscal year 2022-2023 to support the Kentucky Cumberland Forest Conservation Program. *Notwithstanding KRS 45.229, these funds shall not lapse and shall carry forward.*

➔Section 3. KRS 45A.295 is amended to read as follows:

As used in KRS 45A.295 to 45A.320:

- (1) "State public purchasing unit" shall mean the Finance and Administration Cabinet and any other purchasing agency of this Commonwealth, ***including the Department of Fish and Wildlife Resources;***~~;~~
- (2) "Local public purchasing unit" shall mean any county, city, governmental entity and other subdivision of the Commonwealth or public agency thereof, public authority, public educational, health, or other institution, any other entity which expends public funds for the acquisition or leasing of supplies, services, and construction, and any nonprofit corporation operating a charitable hospital;~~;~~
- (3) "Public purchasing unit" shall mean either a local public purchasing unit or a state public purchasing unit;~~;~~
- (4) "Foreign purchasing activity" shall mean any buying organization not located in this Commonwealth which, if located in this Commonwealth, would qualify as a public purchasing unit. An agency of the United States government is a foreign purchasing activity; ***and***~~;~~
- (5) "Cooperative purchasing" shall mean purchasing conducted by, or on behalf of, more than one (1) public purchasing unit, or by a public purchasing unit with a foreign purchasing activity.

➔Section 4. KRS 45A.300 is amended to read as follows:

- (1) Any public purchasing unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any supplies, services, or construction with any other public purchasing unit or foreign purchasing activity, in accordance with an agreement entered into between the participants. This cooperative purchasing may include, but is not limited to, joint contracts between public purchasing units and access by local public purchasing units to open-ended state public purchasing unit contracts.
- (2) Nothing in this code shall limit any public purchasing unit from selling to, acquiring from, or using any property belonging to another public purchasing unit or foreign purchasing activity independent of the requirements of KRS 45A.070 to 45A.180.
- (3) Nothing in this code shall limit or restrict any public purchasing unit from entering into an agreement, independent of the requirements of KRS 45A.045(5) and KRS 45A.070 to 45A.165, with any other public purchasing unit or foreign purchasing activity for the cooperative use of supplies or services.
- (4) Any public purchasing unit may enter into an agreement for the joint or common use of warehousing facilities or the lease or common use of capital equipment or facilities with any other public purchasing unit or a foreign purchasing activity subject to the terms as may be agreed upon between the parties.

- (5) Nothing in this code shall limit or restrict the ability of local school districts to acquire supplies outside of the public purchasing agreements when the supplies and equipment meeting the same specifications as the contract items are available at a lower price elsewhere and the purchase does not exceed two thousand five hundred dollars (\$2,500).
- (6) Nothing in this code shall limit any public purchasing unit from receiving notice of or accepting a price reduction on supplies or equipment when the supplies or equipment are being offered by the vendor with whom a price agreement has been made; the supplies or equipment are being offered in accordance with all terms and conditions that are specified in the price agreement, except those relating to price; and the price reduction is offered to all of the participants in the price agreement. Public purchasing units may accept special price reductions under this subsection even if the reduced price requires the purchase of a specified quantity of units different from the quantity stated in the original price agreement. Price reductions under this subsection shall not be considered to permanently alter the price of the supplies or equipment under the price agreement with the Commonwealth, except where the price reductions are to be made permanent under the express terms of the price agreement and where the purchasing agency which solicited the price agreement determines that the enforcement of those terms serves the best interest of the Commonwealth.
- (7) ***The Finance and Administration Cabinet shall not exclude the Department of Fish and Wildlife Resources from, or interfere with the department's participation in, any contracts available to multiple state agencies for the procurement of goods or services, including but not limited to interfering with the department's electronic access to the statewide accounting system in any way.***

➔Section 5. KRS 45A.800 is amended to read as follows:

As used in KRS 45A.800 to 45A.835, 45A.195, 45A.440, and 45A.695, unless the context requires otherwise:

- (1) "Architect" means an architect licensed under KRS Chapter 323 or a landscape architect licensed under KRS Chapter 323A;
- (2) "Engineer" means an engineer licensed under KRS Chapter 322;
- (3) "Procuring agency" means either the Finance and Administration Cabinet,~~or~~ the Transportation Cabinet, ***or the Department of Fish and Wildlife Resources***;
- (4) "Project" means any undertaking requiring professional architectural, engineering, or engineering-related services, except as provided in KRS 45A.100;
- (5) "User agency" means the state agency or any public supported institution of higher education, when it declines to exercise the authority granted under KRS 164A.590, that will occupy or otherwise be the primary beneficiary of a completed Finance and Administration Cabinet ***or Department of Fish and Wildlife Resources*** project;
- (6) "User division" means ~~at the~~ division of the Transportation Cabinet ***or Department of Fish and Wildlife Resources*** that requires the procuring of engineering or engineering-related services for a project;
- (7) "Engineering-related services" means specialized professional services performed by individuals, consultants, or other organizations of recognized technical competence, education, or experience that are involved in the planning, design, construction, maintenance, or operation of Kentucky's transportation systems, ***mitigation projects***, or construction projects in accordance with applicable licensing statutes; and
- (8) "Firm" means an individual or other entity that offers professional architectural, engineering, or engineering-related services.

➔Section 6. KRS 45A.810 is amended to read as follows:

- (1) (a) One (1) or more architectural services selection committees and one (1) or more engineering or engineering-related services selection committees shall be created in the Finance and Administration Cabinet.
- (b) One (1) or more engineering and engineering-related services selection committees shall be created in the Transportation Cabinet.
- (c) ***One (1) or more engineering and engineering-related services selection committees shall be created in the Department of Fish and Wildlife Resources.***

- (2) Except when an emergency condition exists as defined by KRS 45A.095(1)(a), when architectural, engineering, or engineering-related services are procured under KRS 45A.837 and 45A.838, or when the project is constructed under KRS 45A.045(11)(a) or (b):
- (a) An architectural services selection committee created in the Finance and Administration Cabinet shall participate in every instance of that cabinet's procuring architectural services *for its own needs and the needs of other agencies, and upon request from the commissioner of the Department of Fish and Wildlife Resources, shall assist and participate in that department's procuring of architectural services*;
 - (b) An engineering and engineering-related services selection committee created in the Finance and Administration Cabinet shall participate in every instance of that cabinet's procuring engineering or engineering-related services;~~and~~
 - (c) An engineering and engineering-related services selection committee created in the Transportation Cabinet shall participate in every instance of that cabinet's procuring engineering or engineering-related services; *and*
 - (d) *An engineering and engineering-related services selection committee created in the Department of Fish and Wildlife Resources shall participate in every instance of that department's procuring of engineering or engineering-related services.*
- (3) An architectural services selection committee created in the Finance and Administration Cabinet *to perform its own procurement and assist other state agencies with procuring architectural services* shall consist of six (6) or more members selected in the manner specified within each paragraph:
- (a) Two (2) architects. The secretary of the Finance and Administration Cabinet shall appoint a pool of at least six (6) architects who are employees of the cabinet. At least three (3) of the architects shall be merit employees of the cabinet. The secretary, or ~~his~~ designee, under the supervision of the Auditor of Public Accounts, or ~~his~~ designee, shall randomly select architects from the pool. The first employee selected shall be placed on the selection committee. If the first employee selected is a merit employee, the second employee selected shall be placed on the selection committee. If the first employee selected is a nonmerit employee, the selection process shall continue until a merit employee is selected. That merit employee shall be placed on the selection committee;
 - (b) One (1) or more additional employees of the Department for Facilities Management, appointed by the commissioner of the Department for Facilities Management, to serve as a nonvoting technical adviser for a given project selection. Advisory members shall serve on a project-by-project basis and shall have the requisite knowledge, training, or experience pertaining to the professional requirements of the project;~~and~~
 - (c) Two (2) merit employees of the user agency appointed by the head of that agency to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency;
 - (d) An individual. The Kentucky Society of Architects shall nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the Finance and Administration Cabinet, or ~~his~~ designee, under the supervision of the Auditor of Public Accounts, or ~~his~~ designee, shall randomly select one (1) individual to serve on the committee;
 - (e) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who may, at the discretion of the Auditor, serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee may attend any committee proceedings. If more than one (1) employee is appointed, then either of the employees may attend any committee proceeding; and
 - (f) Upon completion of the selection process set forth in this subsection, the commissioner of the Department of Facilities Management shall submit a statement to the Auditor of Public Accounts attesting to full compliance with the selection process for each architectural firm appointed to provide architectural services. In addition, a complete record of the selection process for each project shall be maintained by the department and shall be subject to audit by the Auditor of Public Accounts.
- (4) The engineering and engineering-related services selection committee created in the Finance and Administration Cabinet shall consist of six (6) or more members selected in the manner specified in each paragraph:

- (a) Two (2) engineers. The secretary of the Finance and Administration Cabinet shall appoint a pool of at least six (6) engineers who are employees of the cabinet. At least three (3) of the engineers shall be merit employees of the cabinet. The secretary, or ~~his~~ designee, under the supervision of the Auditor of Public Accounts, or ~~his~~ designee, shall randomly select engineers from the pool. The first employee selected shall be placed on the selection committee. If the first employee selected is a merit employee, the second employee selected shall be placed on the selection committee. If the first employee selected is a nonmerit employee, the selection process shall continue until a merit employee is selected. That merit employee shall be placed on the selection committee;
 - (b) Two (2) merit employees of the user agency appointed by the head of that agency to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency;
 - (c) An individual. The Kentucky Society of Professional Engineers and the Kentucky Consulting Engineers Council shall together nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the Finance and Administration Cabinet, or ~~his~~ designee, under the supervision of the Auditor of Public Accounts, or ~~his~~ designee, shall randomly select one (1) individual to serve on the committee;
 - (d) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who may, at the discretion of the Auditor, serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee may attend any committee proceedings. If more than one (1) employee is appointed, then either of the employees may attend any committee proceeding;
 - (e) One (1) or more additional employees of the Department for Facilities Management to serve as nonvoting technical adviser for a specific project selection. Advisory members shall serve on a project-by-project basis and shall have the requisite knowledge, training, or experience pertaining to the professional requirements of the project; and
 - (f) Upon completion of the selection process set forth in this subsection, the commissioner of the Department of Facilities Management shall submit a statement to the Auditor of Public Accounts attesting to full compliance with the selection process for each firm appointed to provide engineering or engineering-related services. In addition, a complete record of the selection process for each project shall be maintained by the department and shall be subject to audit by the Auditor of Public Accounts.
- (5) The engineering and engineering-related services selection committee created in the Transportation Cabinet shall consist of six (6) or more members selected in the manner specified in each paragraph:
- (a) Two (2) engineers. The secretary of the Transportation Cabinet shall appoint a pool of six (6) engineers who are employees of the cabinet. At least three (3) of the engineers shall be merit employees of the cabinet. The secretary, or ~~his~~ designee, under the supervision of the Auditor of Public Accounts, or ~~his~~ designee, shall randomly select engineers from the pool. The first employee selected shall be placed on the selection committee. If the first employee selected is a merit employee, the second employee selected shall be placed on the selection committee. If the first employee selected is a nonmerit employee, the selection process shall continue until a merit employee is selected. That merit employee shall be placed on the selection committee;
 - (b) Two (2) engineers who are merit employees of the user division appointed by the head of that division to serve for the duration of the selection committee's participation in the project for which they were appointed by the user agency. However, if two (2) user divisions have approximately equal responsibilities or separate responsibilities for the project, each user division head shall appoint one (1) member to the selection committee;
 - (c) An individual. The Kentucky Society of Professional Engineers and the Kentucky Consulting Engineers Council shall together nominate nine (9) individuals, and the Governor shall appoint three (3) of these individuals to serve in the pool from which the secretary of the Transportation Cabinet, or ~~his~~ designee, under the supervision of the Auditor of Public Accounts, or ~~his~~ designee, shall randomly select one (1) individual to serve on the committee;
 - (d) One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who may, at the discretion of the Auditor, serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee may attend any committee proceedings. If more than one (1) employee is appointed, then either of the employees may attend any committee proceeding; and

- (e) Upon completion of the selection process set forth in this subsection, the commissioner of the Department of Highways shall submit a statement to the Auditor of Public Accounts attesting to full compliance with the selection process for each firm appointed to provide engineering or engineering-related services. In addition, a complete record of the selection process for each project shall be maintained by the department and shall be subject to audit by the Auditor of Public Accounts.
- (6) *The engineering and engineering-related services selection committee created within the Department of Fish and Wildlife Resources shall consist of six (6) or more members selected as follows:*
- (a) *The commissioner of the Department of Fish and Wildlife Resources shall appoint five (5) members:*
1. *One (1) department employee in or designated to the job classification of Department of Fish and Wildlife Resources Project Manager;*
 2. *Two (2) Department of Fish and Wildlife Resources employees in the Engineering and Geological series, at least one (1) of whom shall be a merit employee;*
 3. *One (1) merit employee of the Department of Fish and Wildlife Resources designated by the division head for the project or by the commissioner; and*
 4. *One (1) employee of the Department of Fish and Wildlife Resources who is an attorney;*
- (b) *The Kentucky Society of Professional Engineers and the Kentucky Consulting Engineers Council shall together nominate nine (9) individuals, and the Governor shall select three (3) of these individuals to serve in a pool from which the commissioner of the Department of Fish and Wildlife Resources, or designee, under the supervision of the Auditor of Public Accounts, or designee, shall randomly select one (1) individual to serve on the committee;*
- (c) *One (1) or more merit employees of the Auditor of Public Accounts, appointed by the Auditor, who may, at the discretion of the Auditor, serve as nonvoting members of the committee. If one (1) employee is appointed, then that employee may attend any committee proceedings. If more than one (1) employee is appointed, then either of the employees may attend any committee proceeding; and*
- (d) *Upon completion of the selection process set forth in this subsection, the commissioner of the Department of Fish and Wildlife Resources shall submit a statement to the Auditor of Public Accounts attesting to full compliance with the selection process for each firm appointed to provide engineering or engineering-related services. A complete record of the selection process for each project shall be maintained by the Department of Fish and Wildlife Resources and shall be subject to audit by the Auditor of Public Accounts.*
- (7)~~(6)~~ (a) All selection committee members shall have experience which qualifies them to serve on the committee.
- (b) The same appointment procedures set out in this section apply to any user agency or user division listed in subsection (3), (4),~~(5)~~, **or (6)** of this section that does not operate under a merit system.
- (c) Any individual appointed to serve in a pool from which selection committee members are drawn shall serve in the pool for an initial one (1) year term and may be reappointed~~[to succeed himself]~~. He **or she** shall serve until his **or her** successor is appointed and qualified. A successor or a replacement, in the case of a vacancy in the pool, shall be appointed in the same manner as the initial appointee. If a selection committee member, drawn from a pool, leaves a selection committee, his **or her** replacement shall be drawn from the pool in the same manner as he **or she**. The replacement shall have the merit or nonmerit status of his **or her** predecessor.
- (d) Any individual appointed by the Auditor of Public Accounts to serve on selection committees shall serve an initial one (1) year term and may be reappointed to succeed himself **or herself**. He **or she** shall serve until his **or her** successor is appointed and qualified. A successor or a replacement, in the case of a vacancy, shall be appointed in the same manner as the initial appointee.
- (e) The selection committee members appointed by the head of a user agency or user division shall serve on a project-by-project basis. These members shall participate only in committee action related to the project for which they were appointed. A replacement, in the case of a vacancy, shall be appointed in the same manner as the initial appointee.

➔ Section 7. KRS 45A.815 is amended to read as follows:

- (1) Before a person joins a selection committee, he *or she* shall receive an orientation from the procuring agency whose secretary *or commissioner* appointed members to the committee. The orientation shall include, but not be limited to, an explanation of all statutes and administrative regulations pertaining to the person's service on the selection committee.
- (2) For administrative purposes, a selection committee shall be attached to the procuring agency whose secretary *or commissioner* appointed members to the committee.
- (3) A procuring agency shall provide a selection committee with:
 - (a) Suitable quarters in Frankfort, Kentucky, in which to conduct its business;
 - (b) An executive secretary and any other staff support necessary for the expeditious conduct of a selection committee's duties and responsibilities; and
 - (c) Office supplies.

➔Section 8. KRS 45A.825 is amended to read as follows:

- (1) (a) A firm shall not be considered for providing architectural, engineering, or engineering-related services to the Finance and Administration Cabinet, *the Department of Fish and Wildlife Resources*, or ~~engineering or engineering-related services to the~~ Transportation Cabinet, unless the relevant procuring agency has prequalified the firm prior to notice of a request for proposals to which that firm intends to respond.
 - (b) A firm's prequalification shall remain in effect for twelve (12) months from the date of prequalification.
- (2) (a) The procuring agency shall consult with the user agency or user division before arriving at a request for proposals.
 - (b) The request for proposals:
 1. Shall include as an evaluation factor whether the work tasks are to be performed in Kentucky or outside Kentucky;
 2. Shall indicate the relative weight of evaluation factors, including the reciprocal preference for resident bidders required by KRS 45A.494; and
 3. Shall establish a timetable for:
 - a. The selection committee's first meeting held pursuant to subsection (6) of this section; and
 - b. The selection committee's activities conducted pursuant to subsection (7)(b) of this section or subsection (8)(b), (d), and (e) of this section, as appropriate.
 - (c) The procuring agency shall provide adequate public notice of a request for proposals and notice of the materials that the procuring agency will provide to a firm to assist that firm in responding to a request for proposals. Those materials shall include, but not be limited to, the request for proposals and the project evaluation sheet to be used by the relevant selection committee. The notice shall also set a deadline for filing responses to a request for proposals with the procuring agency. It shall be the intent of this subsection that firms in all regions of the Commonwealth are given an equal opportunity to be selected.
- (3) A firm shall respond to a request for proposals by submitting before the deadline, a completed form, devised by the procuring agency, which states the firm's experience and its qualifications for the project as described in the request for proposals. A firm which fails to meet the deadline shall be barred from the procurement process.
- (4) The employees of a procuring agency and the members of the selection committee shall keep all responses to a request for proposals confidential until the procuring agency has awarded a contract.
- (5) The secretary *or commissioner* of the procuring agency shall designate a procuring agency employee to determine which firms have prequalified pursuant to subsection (1) of this section and have filed, in a timely fashion, responses to a request for proposals. He *or she* shall create a list of the firms which have done so and certify the list.
- (6) The procuring agency shall organize the selection committee's first meeting. At that meeting, each selection committee member shall sign a statement of confidentiality. Also, at that meeting, the selection committee shall:

- (a) Elect from among the voting members of the committee a chairman and a vice chairman who shall hold their positions for the duration of the selection committee's participation in the project;
 - (b) Be provided with:
 - 1. The certified list created pursuant to subsection (5) of this section;
 - 2. The firms' responses to the request for proposals;
 - 3. The request for proposals;
 - 4. The notice of request for proposals; and
 - 5. The project evaluation sheets; and
 - (c) Discuss the future conduct of its affairs.
- (7) (a) When the Transportation Cabinet *or Department of Fish and Wildlife Resources* procures any engineering or engineering-related services, or when the Finance and Administration Cabinet procures architectural services for an estimated fee of less than fifty thousand dollars (\$50,000) or engineering or engineering-related services for an estimated fee of less than one hundred thousand dollars (\$100,000), this subsection and subsection (9) of this section shall govern the procurement process.
- (b) The selection committee shall meet in executive session to:
 - 1. Evaluate the materials with which it has been provided;
 - 2. Select the three (3) most qualified firms and rank them in order of preference, based upon the weighted evaluation factors established in the request for proposals; and
 - 3. Notify the procuring agency of the ranking.
 - (c) The procuring agency shall notify each firm which responded to the request for proposals, informing the firm of:
 - 1. The three (3) finalists;
 - 2. Their ranking; and
 - 3. The rest of the procedure that will be followed in the awarding of the contract.
 - (d) The procuring agency shall then begin negotiations with the top-ranked firm pursuant to subsection (9) of this section.
- (8) (a) When the Finance and Administration Cabinet is procuring architectural services for an estimated fee of fifty thousand dollars (\$50,000) or more or engineering or engineering-related services for an estimated fee of one hundred thousand dollars (\$100,000) or more, this subsection and subsection (9) of this section shall govern the procurement process.
- (b) The selection committee shall meet in executive session to:
 - 1. Evaluate the materials with which it has been provided;
 - 2. Select, but not rank, the three (3) most qualified firms, based upon the weighted evaluation factors established in the request for proposals; and
 - 3. Notify the procuring agency of the three (3) finalists.
 - (c) The procuring agency shall notify each firm which responded to the request for proposals, informing the firm of:
 - 1. The three (3) finalists; and
 - 2. The rest of the procedure that will be followed in the awarding of the contract.
 - (d) The selection committee shall interview the three (3) finalists, preferably on the same day. The finalists shall be interviewed one (1) at a time, and each interview shall be attended only by representatives of the finalist and members of the selection committee. Members of the selection committee shall keep confidential the substance of an interview until the procuring agency has awarded a contract.
 - (e) The selection committee shall meet in executive session to:

1. Rank the three (3) finalists based upon the weighted evaluation factors established in the request for proposals; and
 2. Forward the ranking to the procuring agency.
- (f) The procuring agency shall notify each finalist, informing the finalist of:
1. *The finalist's*~~[His]~~ ranking; and
 2. The rest of the procedure that will be followed in the awarding of the contract.
- (g) The procuring agency shall then begin negotiations with the top-ranked firm pursuant to subsection (9) of this section.
- (9) The secretary *or commissioner* of the procuring agency shall designate a procuring agency employee as the procuring officer in charge of negotiating a contract with the top-ranked firm, as determined by the selection committee, at compensation which the procuring officer determines in writing to be fair and reasonable to the Commonwealth. In making this decision, the employee shall take into account the estimated value of the services to be rendered, and the scope, complexity, and professional nature thereof. Should the procuring officer be unable to negotiate a satisfactory contract with the top-ranked firm, at a price that he *or she* considers fair and reasonable to the Commonwealth, he *or she* shall formally terminate negotiations with the firm. The procuring officer shall then undertake negotiations with the second-ranked firm. Failing accord with the second-ranked firm, the purchasing officer shall formally terminate negotiations. The purchasing officer shall then undertake negotiations with the third-ranked firm. Should the purchasing officer be unable to negotiate a satisfactory contract with any of the selected firms, he *or she* shall formally terminate negotiations, and the procurement procedure shall start again from the beginning pursuant to KRS 45A.810.
- (10) Once a procuring officer has negotiated a contract, the procuring agency shall notify the other finalists, informing them of:
- (a) Which firm has successfully negotiated a contract; and
 - (b) The rest of the procedure that will be followed in the awarding of the contract.
- (11) Notwithstanding the provisions of KRS 45A.045, when the Transportation Cabinet *or the Department of Fish and Wildlife Resources* is the procuring agency, the negotiated contract shall take effect without the approval of the secretary of the Finance and Administration Cabinet.
- (12) The provisions of this section shall not apply to the procurement of architectural, engineering, or engineering-related services under KRS 45A.837 and 45A.838.

➔Section 9. KRS 45A.830 is amended to read as follows:

- (1) For architectural, engineering, and engineering-related construction services procured under KRS 45A.180 and 45A.825, the procuring officer shall make available a copy of the proposed contract to each member of the selection committee involved in the procurement process for that contract after the procuring officer has negotiated an architectural, engineering, or engineering-related services contract for the Finance and Administration Cabinet *or the Department of Fish and Wildlife Resources*, or an engineering or engineering-related services contract for the Transportation Cabinet, but before the contract is submitted to the Government Contract Review Committee.
- (2) For architectural, engineering, and engineering-related construction services procured under KRS 45A.180 and 45A.825, the secretary *or commissioner* of the procuring agency, the procuring officer, and each voting member of the selection committee shall sign separate certificates, devised by the procuring agency, that shall provide the signatory with the option of certifying that, to the best of his *or her* knowledge, he *or she* is either aware or unaware of circumstances that may constitute a violation of this chapter occurring in the procurement process. Any employee of the Auditor of Public Accounts, who served as a nonvoting member of the selection committee and who attended any committee proceeding, may participate in the preparation of a report for filing with the Government Contract Review Committee certifying that the applicable procedural provisions of subsections (4), (6), (7), and (8) of KRS 45A.825 were or were not met. Before filing the report, the employee or employees who participated in its preparation shall sign it.
- (3) For architectural, engineering, and engineering-related construction services procured under KRS 45A.180 and 45A.825, the procuring agency shall maintain the following information, readily available to the Government Contract Review Committee upon request:
 - (a) The certificates;

- (b) The selection committee's ranking of firms; and
- (c) A statement affirming that responding firms in all regions of the Commonwealth were given equal consideration for selection.

➔Section 10. KRS 45A.837 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 45A.800 to 45A.835, the Finance and Administration Cabinet, *the Department of Fish and Wildlife Resources*, and the Transportation Cabinet may enter into price contracts for architectural, engineering, and engineering-related services. If the agencies choose to enter into a price contract, subsection (2) of this section shall apply.
- (2) Price contracts shall be awarded to firms qualified by the Finance and Administration Cabinet, Department of Facilities Management or by the Transportation Cabinet, Department of Highways. The Finance and Administration Cabinet selection committee established by KRS 45A.810 shall meet at least quarterly during each fiscal year to review and make recommendations to the commissioner of the Department for Facilities Management for qualification of interested firms. The Transportation Cabinet selection committee established by KRS 45A.810 shall meet at least quarterly during each fiscal year to review and make recommendations to the commissioner of the Department of Highways for qualification of interested firms.
 - (a) The respective committees shall evaluate those firms submitting statements of interest in obtaining a price contract. The submitting firms shall be reviewed according to the following criteria:
 - 1. Qualifications;
 - 2. Ability of professional personnel; and
 - 3. Past record and experience.
 - (b) Firms qualified by the commissioner of the Department for Facilities Management or by the commissioner of the Department of Highways shall be awarded price contracts by the respective departments for the type of work for which they have been qualified.
 - (c) The commissioner of the Department for Facilities Management, *the commissioner of the Department of Fish and Wildlife Resources*, or the commissioner of the Department of Highways may select firms to perform work under price contract for small projects for which the architectural, engineering, or engineering-related fees do not exceed seventy-five thousand dollars (\$75,000). However, no firm that has received more than one hundred fifty thousand dollars (\$150,000) in price contract fees in any one (1) fiscal year in the contract discipline being awarded shall be selected to work under a price contract unless the secretary of *the Finance and Administration Cabinet*, ~~or~~ the secretary of *the Transportation Cabinet, or the commissioner of the Department of Fish and Wildlife Resources* makes a written determination that the selection is in the best interest of the Commonwealth and the determination is confirmed by the appropriate cabinet's *or department's* selection committee established by KRS 45A.810.
- (3) Notwithstanding any provision of the Kentucky Revised Statutes, no price contract shall be awarded under the provisions of this section before completion of the review procedure provided for in KRS 45A.695 and 45A.705.

➔Section 11. KRS 45A.838 is amended to read as follows:

- (1) If choosing to operate under this section, the Transportation Cabinet *and the Department of Fish and Wildlife Resources* shall, by administrative regulations promulgated under KRS Chapter 13A, designate each type of project for which a pool of firms is to be established and from which the firm to provide the needed architectural, engineering, or engineering-related contract services is to be selected. The project types designated by these administrative regulations shall be limited to those projects for which the professional services to be rendered for each individual contract are substantially similar and to those project types for which architectural, engineering, or engineering-related fees are expected to be at least fifty thousand dollars (\$50,000).
- (2) The Transportation Cabinet *and the Department of Fish and Wildlife Resources* selection ~~committees~~ ~~committee~~ established under KRS 45A.810 shall annually select the engineering or engineering-related services firms for each pool in accordance with the standards for application and selection established by administrative regulation under subsection (4) of this section.

- (3) Once selected for a particular pool, a firm providing architectural, engineering, or engineering-related services shall remain in the pool for two (2) years unless disqualified under subsection (6) of this section. Upon the expiration of the two (2) year period, a firm may reapply for selection.
- (4) The procedures and criteria for qualifying and selecting the firms to be placed in each annual pool shall be set forth in administrative regulations promulgated by the Transportation Cabinet *or the Department of Fish and Wildlife Resources*. The administrative regulations shall provide for adequate notice to firms of the establishment of the individual pools, an application procedure for a firm interested in the pool for a particular type of project, the deadline for submission of the application, and the criteria to be used for the establishment of each pool.
- (5) The procedures for determining which firm is to be selected from the pool to provide services for a particular project shall be set forth in administrative regulations promulgated by the Transportation Cabinet *or the Department of Fish and Wildlife Resources*.
- (6) The secretary of *the Transportation Cabinet or the commissioner of the Department of Fish and Wildlife Resources* may remove a firm from a pool for good cause. Any firm that has been removed from a pool may, within thirty (30) days after the removal, petition the secretary for reinstatement. Within sixty (60) days following the secretary's receipt of a petition, the selection committee shall meet to consider the request for reinstatement. If the selection committee recommends that the firm be reinstated to the pool and the secretary accepts the recommendation, the affected firm shall be reinstated.
- (7) After one (1) year of disqualification, a firm that has been removed from a pool under subsection (6) of this section may reapply to be qualified.
- (8) Nothing in this section shall be construed to require use of any pool for a particular project if the responsible cabinet *or department* has determined that the project does not meet the criteria established for pool projects.

➔Section 12. KRS 56.040 is amended to read as follows:

When any land or interest in land is to be paid for out of state funds, the Finance and Administration Cabinet, *the* ~~{(}Transportation Cabinet for requirements of that cabinet, *or the Department of Fish and Wildlife Resources for its acquisitions of land or interests in land,*}~~ shall take action to provide for the examination and certification of the title to the affected land, with or without exceptions, by an attorney licensed to practice law in this state, or for the insurance of the title to such land by a land title insurance company authorized to do business in this state. A survey and plat of the land showing the corners, angles, and calls of the land shall be made by a competent land surveyor prior to the date of the deed conveying the land or any interest therein to the state. The costs incurred under this section shall be charged against the funds of the agency for whose use and benefit the land is acquired.

➔Section 13. KRS 150.022 is amended to read as follows:

- (1) The Department of Fish and Wildlife Resources Commission shall consist of nine (9) members, one (1) from each commission district, as set out by the commissioner with the approval of the commission, and not more than five (5) of the same political party.
- (2) The Governor shall appoint the members of the commission subject to confirmation by the Senate as described in subsection (3) of this section. Each of the members shall be appointed for a term ending on December 31 of the fourth calendar year following his or her appointment, except that a member's term shall continue until his or her successor is duly appointed and confirmed by the Senate, but no later than one (1) year following the expiration of the member's term. If after one (1) year a successor has not been duly appointed and confirmed by the Senate, the commissioner's seat for that district shall be vacant until a successor is duly appointed and confirmed by the Senate. A member shall serve no more than two (2) full terms, not including any partial term that a member may additionally serve. A person who has been convicted of a felony offense, in Kentucky or under the law of any other state, or any other law of the United States shall not be eligible to serve on the commission.
- (3)
 - (a) Vacancies through the expiration of terms of the members of the commission shall be filled by appointment by the Governor from a list of five (5) names from each commission district, recommended and submitted by the sportsmen of each respective district.
 - (b) When the term of a member expires, the commissioner shall call a meeting of the sportsmen in that district not later than thirty (30) days prior to the expiration of the member's term. Notice of the meeting shall be given by publication pursuant to KRS Chapter 424.

- (c) At the meeting, the sportsmen in attendance shall select and submit to the Governor a list of five (5) residents and citizens of the district who have held hunting and fishing licenses in Kentucky or another state for at least the previous five (5) consecutive years, or who have been hunting and fishing in the Commonwealth for the previous five (5) consecutive years while license-exempt under KRS 150.170, and who are well informed on the subject of wildlife conservation and restoration. Each sportsman may vote for one (1) candidate only, and the list submitted to the Governor shall be made up of the names of the five (5) candidates receiving the five (5) highest vote totals.
- (d) The Governor shall appoint a successor to the member whose term has expired no later than January 20 of the year following the year in which the member's term expired.
- (4) Upon appointment to the Department of Fish and Wildlife Resources Commission, each commissioner shall execute a bond of one thousand dollars (\$1,000) in favor of the Department of Fish and Wildlife Resources, the premium on this bond to be paid out of department funds.
- (5) In the event of vacancies other than by expiration, the Governor shall fill the vacancy for the unexpired part of the term from the names remaining on the list previously submitted for the district from which the vacancy arose. ***An appointee chosen under this subsection shall not serve on the commission until duly confirmed by the Senate.***
- (6) Each member of the commission shall take the constitutional oath of office.
- (7) The Governor shall remove any member of the commission for cause under subsection (2) of this section and may remove a member of the commission for nonfeasance, neglect of duty, or misconduct in office; but shall first deliver to the member a copy of all charges in writing and afford to him or her an opportunity for an administrative hearing to be conducted in accordance with KRS Chapter 13B. ~~[In order to remove a member of the commission, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the member and his or her findings thereon, together with a complete record of the proceedings.]~~
- (8) Each member of the commission shall be entitled to reimbursement for actual and necessary traveling and other expenses incurred by him or her in the discharge of his or her official duties and to be paid from the game and fish fund.
- (9) A majority of the commission shall constitute a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power vested in the commission.
- (10) The department shall have its principal office in Franklin County, and is authorized to purchase all supplies, equipment, and printed forms and to issue any notices and publications as the commissioner may deem necessary to carry out the provisions of this chapter.
- (11) The word "sportsman" as used in this section shall mean a resident hunter or fisherman who has been licensed in Kentucky for each of the past two (2) consecutive years.

➔Section 14. KRS 150.0242 is amended to read as follows:

- (1) Notwithstanding any provision of law to the contrary, the department shall conduct all procurements necessary for the performance of its duties in accordance with ***the procurement procedures outlined in KRS Chapter 45A, [and] this chapter, and the administrative regulations promulgated under this chapter, but the department shall not be subject to any provision of KRS Chapter 45A that requires the approval of any Finance and Administration Cabinet official for the department to proceed with any aspect of the procurement process.*** Upon approval of the commission, the commissioner shall be deemed the chief purchasing officer for the purposes of conducting procurements for the department and shall have all of the authority and responsibility with regard to the department's procurements as the secretary for the Finance and Administration Cabinet has for procurements under KRS Chapter 45A. All department personal service contracts, tax incentive agreements, and memoranda of agreement shall be subject to review by the Government Contract Review Committee established by KRS 45A.705.
- (2) In its bidding and negotiation processes, the department, upon approval of the commission, shall perform its own bidding and procurement in accordance with the procedures established by KRS Chapter 45A.
- (3) All members of the commission, the commissioner, and employees of the department shall be subject to the requirements of the Executive Branch Code of Ethics established under KRS Chapter 11A.

- (4) *On or before January 1, 2024, the department shall promulgate administrative regulations pursuant to KRS Chapter 13A to implement its procedures for the procurement of engineering services pursuant to this chapter and KRS 45A.800 to 45A.835.*

➔Section 15. KRS 150.120 is amended to read as follows:

- (1) The commissioner, all conservation officers, persons appointed by the commissioner, and all peace officers and their deputies shall seize and take possession of any and all furs, wildlife, guns, dogs, instruments, boats or devices which have been taken, used, transported or possessed contrary to any law or regulation adopted under this chapter. Upon complaint showing probable cause for believing that any of the wildlife protected by any law or regulation are illegally kept in any building, car or receptacle, any court having jurisdiction may issue a search warrant and cause the same to be searched. Any wildlife, furs, guns, dogs, instruments, or devices seized in accordance with this section shall be impounded by the arresting officer and shall be taken before the court trying the person arrested.
- (2) Upon conviction, the court trying the case shall have the discretion of determining whether or not any of the things seized under the provisions of subsection (1) of this section shall be declared contraband. Any wildlife, fur or dog taken, and any device used or possessed contrary to the provisions of this chapter, or any regulations adopted hereunder, is subject to being declared contraband. When any such item is declared contraband, the court shall enter an order accordingly. A copy of the order shall be forwarded to the commissioner and the contraband shall be placed in the custody of the arresting officer, to be delivered to the commissioner.
- (3) The commissioner may sell to the residents of this state, at the highest market price obtainable, with the approval of the *commission*~~[Governor and the Finance and Administration Cabinet]~~ all contraband which comes to his *or her* possession under the order of any court, or which has been seized under this chapter and declared to be contraband under any law relating to fish or wildlife. All proceeds arising from the sale of contraband articles shall be paid into the game and fish fund, **and shall be subject to audit by the Auditor of Public Accounts under Section 16 of this Act.** A record of the sale, including the name of the purchaser and the price paid, shall be kept by the commissioner.
- (4) Any device or contrivance, the use of which is not expressly recognized and sanctioned by the provisions of this chapter for the taking of wildlife, is hereby declared to be an illegal device. No person shall have in his *or her* possession any illegal device or other thing prohibited by law or by any regulation adopted under this chapter for the taking of wildlife.

➔Section 16. KRS 150.152 is amended to read as follows:

Each year when the Auditor of Public Accounts conducts the statewide single audit of the Commonwealth of Kentucky, the Auditor of Public Accounts shall with respect to the Department of Fish and Wildlife Resources:

- (1) Examine the separate revenue streams of each account within the game and fish fund to ensure compliance with the prohibition against commingling of funds;
- (2) Disaggregate and report the revenue and expenditures, by type, within the program income fund of the fish and game fund;
- (3) Identify internal controls, weaknesses, operating inefficiencies, and make recommendations for improvements;
- (4) Examine~~[all department procurement procedures and]~~ procurements, **expenditures, and procurement policies**~~[made by the department since the previous annual statewide audit]~~ to ensure compliance with the **procurement procedure** requirements of KRS Chapter 45A and 150.0242; and
- (5) Submit a written report to the Interim Joint Committee on Natural Resources and Energy in conjunction with the release of the statewide single audit of the Commonwealth of Kentucky.

➔Section 17. KRS 150.170 is amended to read as follows:

- (1) Except as provided in the following subsections of this section, and subject to administrative regulations promulgated under this chapter, no person, resident, or nonresident shall do any act authorized by any kind of license or permit or assist in any way any person in doing any act provided for in this chapter with respect to wildlife unless he or she holds the kind of license or permit, resident or nonresident, that authorizes the act. It shall be the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for in KRS 150.175, except to the extent as may be otherwise provided in this section.

- (2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap, or dip net.
- (3) A person under twelve (12) years of age shall be exempt from being required to obtain a sport hunting or sport trapping license as required by this chapter.
- (4) The resident owner of farmlands *of five (5) or more acres* or his or her spouse or dependent children shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season, except trapping, on ~~the~~ farmlands *of five (5) or more acres* of which they are bona fide owners. Tenants or their dependent children residing upon these farmlands shall have the same privilege.
- (5) Residents or nonresidents observing and participating in field trials, training exercises, or other competitions as authorized by the department may observe and participate without obtaining a hunting or guide's license so long as game is not taken.
- (6) Any resident serviceman on furlough of more than three (3) days in this state may, without any Kentucky sport hunting or sport fishing licenses, do any act authorized by the licenses, but while so doing he or she shall carry on his *or her* person proper identification and papers showing his or her furlough status.
- (7) Landowners, their spouses or dependent children, or their designee who must be approved by the commissioner, who kill or trap on their lands any wildlife causing damage to the lands or any personal property situated thereon shall not be required to have a hunting or trapping license and may do so during periods other than the open season for the particular species without a tag and dispose of the carcass on-site. Tenants, their spouses, their dependent children, or other persons approved by the commissioner, shall also have the same privilege. Upon destruction of any wildlife by the above-specified individuals, the act shall be reported to a conservation officer within twenty-four (24) hours of the kill. Individuals wishing to transport the carcass from the property upon which it was killed shall contact personnel of the department to request a disposal tag or other authorization. Inedible parts from wildlife taken under the authorization of this section shall not be utilized for any purpose and shall be destroyed or left afield. The department shall promulgate administrative regulations establishing procedures for the designee appointment process, including request and approval deadlines.
- (8) If a reciprocal agreement is entered into by the commissioner, with the approval of the commission, and promulgated as an administrative regulation by the department and similar action is taken by the appropriate authority in Missouri, Tennessee, Virginia, West Virginia, Indiana, Ohio, or Illinois, persons holding a resident or nonresident fishing or a resident or nonresident hunting license issued in these states shall be permitted to perform the acts authorized by the license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the State of Kentucky. A resident of the State of Kentucky shall purchase a proper Kentucky license to conform with the reciprocal agreement.
- (9) Any member of the Kentucky Army or Air National Guard, active duty or Reserve Component, in any branch in the United States Armed Forces that is based in the Commonwealth of Kentucky, shall have the right to take fish or hunt on any military property belonging to the Commonwealth without procuring any sport hunting or sport fishing license.
- (10) A person not otherwise exempted from hunter safety education or from procuring any sport hunting or sport fishing license shall be exempt from the department-sanctioned live-fire exercise component of the hunter education course requirement if he or she:
 - (a) Is a current member of the Armed Forces of the United States;
 - (b) Has served in the Armed Forces of the United States and was discharged or released therefrom under conditions other than dishonorable; or
 - (c) Is a peace officer certified pursuant to KRS 15.380 to 15.404.

➔Section 18. KRS 150.175 is amended to read as follows:

The kinds of licenses and tags authorized by this chapter, and the acts authorized to be performed under the licenses and tags, subject to the other provisions of this chapter and subject to administrative regulations promulgated under this chapter, shall be as follows:

- (1) Statewide resident sport fishing license, which authorizes the holder to take fishes by angling, or take crayfish by a minnow seine, or by hand, to take minnows by the use of a minnow seine, minnow trap, or dip net, or to take fishes by grabbing, gigging, snagging, snaring, jugging, and bow and arrow, and to take frogs and turtles from any waters in any county of this state open for such purposes and subject to the limitations in this chapter

and additional limitations that the department may from time to time prescribe. This license shall not authorize the holder to sell fish;

- (2) A short-term sport fishing license, which authorizes the holder to perform all acts authorized by a statewide sport fishing license and subject to the same limitations or prescribed administrative regulations. This license shall not authorize the holder to sell fish;
- (3) A resident commercial fishing license and a nonresident commercial fishing license, which authorize a holder to perform any act authorized by a sport fishing license and to take rough fishes from the waters of the state by the use of commercial fishing gear as prescribed by administrative regulation. The license shall also authorize the holder to sell rough fishes, other than those protected by administrative regulation;
- (4) A commercial fishing gear tag, which shall be attached to each piece of commercial fishing gear including hoop nets, slat traps, trotline, wing nets, and to each one hundred (100) feet of linear gear or portion thereof in use, including commercial seines, gill nets, or trammel nets. Commercial gear tags may be issued only to a person holding a resident or nonresident commercial fishing license;
- (5) Live fish and bait dealer's licenses, resident and nonresident, which authorize the holder to sell bait and live fish as may be prescribed by administrative regulation;
- (6) Musseling licenses, resident and nonresident, which authorize the holder to take mussels for commercial purposes as may be prescribed by administrative regulation;
- (7) A statewide resident hunting license, which authorizes the holder to take or pursue wild animals, wild birds, frogs, and turtles with gun, bow and arrow, dog, or falcon, or to participate in a fox-hunting party engaged in the hunting or pursuing of foxes with dogs for sport, according to the provisions of the laws and administrative regulations of the department;
- (8) A ~~youth~~^{junior} statewide hunting license, which may be issued to a person before he or she has reached his or her sixteenth birthday, and which authorizes the holder to exercise all the privileges authorized by a statewide hunting license~~. No junior hunting license shall be issued without the written permission of parent, guardian, or person having custody of the person under sixteen (16) years of age~~;
- (9) Trapping licenses, resident and nonresident, which authorize the holder to take wild animals by trapping upon his or her own lands or upon the lands of another person, if the holder of the license has first obtained oral or written consent as provided in KRS 150.092 and administrative regulation;
- (10) A taxidermist license, which authorizes the holder to engage in the act of preparing, stuffing, and mounting the skins of wildlife;
- (11) A commercial guide's license, which authorizes the holder to guide hunting and fishing parties according to the provisions of the laws and administrative regulations of the department;
- (12) Fur buyer's licenses, resident and nonresident, which authorize the holder to buy raw furs from licensed trappers and hunters and to sell raw furs so purchased. Applicants for the license shall state the number of premises to be used and shall display at each a copy of the license as furnished by the department, except that the commissioner may limit the number of copies furnished and may revoke the license for violation;
- (13) A fur processor's license, which may be issued only to a resident, a partnership, firm, or corporation of this state and which authorizes the holder to buy raw furs when in legal possession for processing, manufacture, or retention in cold storage or for resale;
- (14) A nonresident sport fishing license, which authorizes the holder to perform any act authorized by a resident statewide sport fishing license. This license shall not authorize the holder to sell fish;
- (15) A nonresident annual hunting license, which authorizes the holder to perform any act authorized by a resident statewide hunting license;
- (16) Shoot-to-retrieve field trial permits, four (4) day and single day, which authorize a permit holder to conduct a shoot-to-retrieve field trial on private or government-owned lands. With a four (4) day permit, all participants, whether residents or nonresidents, shall not be required to possess any other license to participate in the permitted field trial, and the permit shall expire four (4) days after the date on which the field trial began. With the single day permit, the permit is valid for one (1) day and all participants shall have a valid resident or nonresident annual Kentucky hunting license. A permit is not required to conduct a shoot-to-retrieve field trial on a licensed shooting preserve; however, all participants that take or attempt to take game shall have in their possession a resident or nonresident annual Kentucky hunting license;

- (17) Game permits and ~~youth~~~~junior~~ game permits, which, in combination with a valid statewide hunting license or a valid ~~youth~~~~junior~~ statewide hunting license, authorize the holder to take or pursue the specified game species in any designated open area of this state, during the open season and according to the provisions of the laws and administrative regulations governing the hunting;
- (18) A combination hunting and fishing license, which authorizes only resident holders to perform all acts valid under either a sport fishing or hunting license;
- (19) A trout permit, which in combination with a valid statewide fishing license, authorizes the holder to take trout by angling or as may be prescribed by administrative regulation;
- (20) A commercial waterfowl permit, which authorizes the holder to establish and operate a commercial waterfowl hunting preserve;
- (21) A short-term hunting license, which authorizes the holder to perform all acts authorized by a statewide hunting license according to the provisions of the laws and administrative regulations of the department;
- (22) A joint statewide resident sport fishing license issued to a husband and wife which authorizes them to take fish as provided in subsection (1) of this section. The license fee for this joint license shall be ten percent (10%) less than the license fee set by the commission for two (2) statewide resident sport fishing licenses;
- (23) A Kentucky migratory bird permit, which in combination with a valid statewide hunting license and compliance with applicable federal law, authorizes the holder to take or pursue waterfowl and migratory shore or upland game birds;
- (24) A pay lake license which authorizes the holder to operate privately owned impounded waters for fishing purposes for which a fee is charged;
- (25) A senior ~~sportsman's~~~~combination~~ hunting and fishing license, which authorizes the holder to perform all acts valid under a sport fishing license, a sport hunting license, or a state permit to take deer, turkey, trout, waterfowl, or migratory shore or upland game birds, and which shall be available to a Kentucky resident who is sixty-five (65) years of age or older.

The senior ~~sportsman's hunting and fishing~~~~combination~~ license shall not be valid unless the holder carries proof of residency and proof of age, as the department may require by administrative regulation, on his or her person while performing an act authorized by the license;

- (26) A senior lifetime ~~sportsman's~~~~combination~~ hunting and fishing license, which remains valid until the death of the holder and authorizes the holder to perform all acts valid under a sport fishing license, a sport hunting license, and a state permit to take deer, turkey, trout, waterfowl, and migratory shore and upland game birds, and which shall be available to a Kentucky resident who is sixty-five (65) years of age or older;
- (27) A disabled ~~sportsman's~~~~combination~~ hunting and fishing license, which authorizes the holder to perform all acts valid under a sport fishing license, a sport hunting license, and a state permit to take deer, turkey, trout, waterfowl, and migratory shore and upland game birds, and which shall be available to a Kentucky resident who is:
- (a) An American veteran at least fifty percent (50%) disabled as a result of a service-connected disability; or
 - (b) Declared permanently and totally disabled by the federal Social Security Administration, the United States Office of Personnel Management, the Kentucky Teachers' Retirement System, the Department of Workers' Claims or its equivalent from another state, or the United States Railroad Retirement Board.

The disabled ~~sportsman's hunting and fishing~~~~combination~~ license shall not be valid unless the holder carries proof of residency ~~and proof of disability~~, as the department may require by administrative regulation, on his or her person while performing an act authorized by the license;

- (28) A sportsman's license ~~and youth sportsman's license~~ for residents that ~~include~~~~includes an~~ annual hunting and fishing ~~licenses~~~~license~~ and such permits as allowed by administrative regulations promulgated by the department; and
- (29) A special license for residents and nonresidents for the purpose of hunting on licensed shooting areas. This license shall be valid only for the shooting areas for which it was issued and shall remain in effect for one (1) year. If the hunter holds either a nonresident or resident statewide hunting license for the current year, the special license shall not be required.

The department may offer multiyear licenses or permits for any of the annual licenses or permits authorized in subsections (1), (7), (9), (14), (15), (17), (18), (19), (23), and (28) of this section. A multiyear license or permit shall authorize the holder to perform all acts authorized by the same license or permit if purchased annually and shall be issued in accordance with the provisions of this chapter and the administrative regulations promulgated hereunder. Any multiyear licenses or permits offered by the department relating to the annual licenses or permits authorized in subsections (1), (7), (9), (14), (15), (17), (18), (19), (23), and (28) of this section shall be implemented by administrative regulation and may be discontinued at any time.

➔Section 19. KRS 150.195 is amended to read as follows:

- (1) The department shall by administrative regulation provide for the control of the design, issuance, distribution, and other matters relating to all licenses and permits issued by the department.
- (2) The department shall name each county clerk not granted an exemption from selling licenses or permits by the commissioner as an agent for the sale of licenses and permits or other items. The county clerk shall not appoint any other person or organization, other than a paid deputy clerk, to sell licenses and permits. A county clerk may, at any time during his term of office, apply in writing to the commissioner for an exemption from the requirement that he *or she* sell licenses and permits or other items for the department. The commissioner shall then grant the exemption until the clerk requests otherwise in writing.
- (3) The department ~~may~~~~shall~~ sell its own licenses or permits and may name any other **persons, governmental entities, businesses, or organizations**~~person or organization~~ meeting the requirements specified by statute and by the department by administrative regulation as **agents**~~an agent~~ for the sale of specified licenses and permits or other items for the department.
- (4) The department shall, by administrative regulation, determine:
 - (a) The number and distribution of agents in a county;
 - (b) Which licenses and permits or other items shall be sold *or issued* by the department and agents of the department;
 - (c) The requirements for persons, **governmental entities, businesses,** or organizations~~other than county clerks~~ to sell licenses and permits or other items issued by the department;
 - (d) The fees allowed to be retained by agents of the department;
 - (e) Matters relating to the remittance of license and permit fees and proceeds of the sale of other items, procedures for accountability for licenses and permits, and accountability for license and permit fees and proceeds of the sales of other items;
 - (f) The license and permit term, and the date of expiration of licenses and permits; and
 - (g) The manner in which the licenses, permits, and other items issued by the department are designed, issued, and sold, and details relating to the application for and sale of licenses, permits, and other items, the reporting of license, permit, and other sales, and other matters deemed necessary by the department for the proper administration and operation of a program relating to the design, issuance, and sale of licenses, permits, and other items issued by the department.
- (5) No person shall make a false statement or provide any false information when applying for a license or permit.
- (6) Unless permitted to do so by administrative regulation, no person shall alter or modify a license or permit in any manner.
- (7) No ~~person~~~~employee of the department, no agent designated by the department, or no employee of an agent designated by the commissioner~~ shall knowingly make a false entry upon a license or permit, license or permit record, or an application or report required by this chapter or by an administrative regulation issued thereunder.
- (8) The department~~and each agent designated by the commissioner~~ shall keep a correct and complete record of all licenses and permits applied for or issued, and all other records required to be kept by statute or by the department by administrative regulation. License and permit records shall be public records and shall be open to public inspection in the manner provided by KRS 61.870 to 61.884.
- (9) No fee for the issuance of a license or permit issued by or on behalf of the department shall be charged or collected by the department or agent of the department other than the amount specified by administrative regulation. Tie-in sales required to obtain a license or permit are prohibited.

- (10) The department shall by administrative regulation develop a procedure for suspending or revoking the agent status of a person or organization violating any provision of this chapter, or the administrative regulations promulgated thereunder, relating to the sale, reporting of, or financial accountability for the sale of licenses or permits which the agent is authorized to sell on behalf of the department.
- (a) The initial determination to suspend or revoke an agent's status shall be made by the commissioner, or by his *or her* designee; and the agent shall be informed of the decision in writing.
 - (b) A decision of the commissioner or his *or her* designee may be appealed to the commission in writing and received by the department within ten (10) days of receipt of the commissioner's notice. Hearings of appeals shall be conducted in accordance with KRS Chapter 13B.
 - (c) Appeals from a final order of the commission shall be to the Franklin Circuit Court in accordance with KRS Chapter 13B.
- (11) Penalties which the commissioner, his *or her* designee in writing, or the commission may assess are:
- (a) A suspension of the agent's status for not less than one (1) nor more than five (5) years; or
 - (b) Revocation of the agent's status permanently, if a natural person, or for not less than ten (10) years to permanently, if an organization.
- (12) Suspension periods shall not be waived, probated, or delayed by the commissioner, his *or her* designee in writing, or the commission. The commission or the Franklin Circuit Court, as appropriate, may reduce a suspension period ordered by the commissioner or his *or her* designee in writing, but to not less than one (1) year, and may reduce a revocation to a suspension.
- (13) The department may experiment with computerized, electronic, or other improved forms of license and permit sales by the department and its agents. Experiments may be conducted on a regional or other basis. The commission shall implement any improved method of license and permit sales finally selected, on a statewide basis by administrative regulation.

➔Section 20. KRS 150.250 is amended to read as follows:

The department, with the approval of the ~~commission~~[secretary of the Finance and Administration Cabinet and the consent of the Governor], may enter into any contract with the United States government, or any department or agency thereof, or with any individual in regard to the preservation, protection and propagation of wildlife which it may deem to the advantage of the state to enter into.

➔Section 21. KRS 150.990 is amended to read as follows:

- (1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any administrative regulation promulgated by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.
- (2)
 - (a) Any person who fails to appear pursuant to a citation or summons issued by a conservation officer or peace officer of this Commonwealth for violation of this chapter or any administrative regulation promulgated thereunder shall forfeit his or her license or, if that person is license-exempt, shall forfeit the privilege to perform the acts authorized by the license. The individual shall not be permitted to purchase another license or exercise the privileges granted by a license until the citation or summons is resolved. The court shall notify the department whenever a person has failed to appear pursuant to a citation or summons for a violation of this chapter or any administrative regulation promulgated thereunder.
 - (b) Any person who violates any of the provisions of this chapter or any administrative regulations promulgated by the commission thereunder may, in addition to the penalties provided in subsections (3), (4), (5), (6), (7), and (8) of this section, forfeit his *or her* license or, if that person is license-exempt, may forfeit the privilege to perform the acts authorized by the license and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than expressly provided by law. Any person who violates any administrative regulation which has been or may be promulgated by the commission under any provisions of this chapter shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the administrative regulation is promulgated.

- (3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.235(1), 150.280, 150.320, 150.330(2), 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.445, 150.450, 150.470, 150.603, or 150.722(2), or any of the provisions of this chapter or any administrative regulation promulgated by the commission for which no definite fine or imprisonment is fixed shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).
- (4) Any person who violates any of the provisions of *subsections (5) to (8) of Section 19 of this Act*, KRS 150.290, 150.300, 150.340, 150.360, 150.362(1), 150.485, 150.600, 150.630, *or* 150.660~~, the provisions of KRS 150.195(5) to (8), or KRS 150.660(3)]~~ shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700. Damages assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk.
- (5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).
- (6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, 150.330(1), 150.235(2), (3), or (4), or 150.363 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed. Costs assessed for the restoration of wildlife under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the costs be paid through the circuit clerk.
- (8) Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall for the first offense be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000); and shall for a second offense be fined not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500); and for any subsequent offense, be fined two thousand dollars (\$2,000).
- (9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of this subsection shall be in addition to the penalties for violation of subsection (8).
- (10) Any person who violates any of the provisions of KRS 150.4111, 150.640, or KRS 150.450(2) or (3) shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (11) Any person who violates any of the provisions of KRS 150.390 or KRS 150.092(4) shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year, or both. In addition to the penalties prescribed above, he or she shall forfeit his *or her* license or, if license-exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of KRS 150.092(4) shall be liable to the landowner or occupant for reasonable compensation for damages. Wildlife replacement costs assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or occupant. The court shall not direct that the damages be paid through the circuit clerk. Any person who possesses, takes, or molests a wild elk in violation of KRS 150.390 or administrative regulations promulgated under authority of that section shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or imprisoned for up to six (6) months, or both. In addition to these penalties, the person shall pay to the department an amount not to exceed the greater of the replacement cost of the wild elk or double any monetary gain realized from the illegal activity and shall forfeit his or her license or, if license-exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years.

- (12) Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.
- (13) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.
- (14) A person shall be guilty of a Class B misdemeanor upon the first conviction for a violation of KRS 150.710. A subsequent conviction shall be a Class A misdemeanor.
- (15) Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the first offense be fined not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300); for the second offense, be fined not less than three hundred dollars (\$300) nor more than one thousand dollars (\$1,000); and for subsequent offenses, shall forfeit the license or, if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than one thousand dollars (\$1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property which was damaged or destroyed by his *or her* actions. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or the tenant. The court shall not direct that the damages be paid through the circuit clerk.
- (16) (a) Any person who knowingly violates KRS 150.361 shall for a first offense be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than six (6) months, or both.
- (b) Any person who knowingly violates KRS 150.361 shall for a second or subsequent offense be fined not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500) or be imprisoned in the county jail for not more than six (6) months, or both.
- (c) In addition to the penalties specified in paragraphs (a), (b), and (d) of this subsection, a person knowingly violating KRS 150.361 shall forfeit his or her hunting license or, if license-exempt, the privilege to perform the acts authorized by the license for a period of not less than one (1) nor more than three (3) years.
- (d) In addition to the penalties specified in paragraphs (a), (b), and (c) of this subsection any person knowingly violating KRS 150.361 shall be liable to the department in an amount not to exceed the greater of the replacement value of any wildlife killed or wounded in violation of KRS 150.361 or double the amount of the monetary gain from knowingly violating KRS 150.361.
- (e) Wildlife replacement costs or other costs specified in paragraph (d) of this subsection shall be ordered paid directly to the department. The court shall not direct that the replacement costs be paid through the circuit clerk.
- (17) Any person convicted of violating KRS 150.186 shall be guilty of a Class A misdemeanor and shall, whether licensed or license-exempt, forfeit his or her right to hunt, fish, trap, or be licensed as a commercial guide for a period of ten (10) years.

➔Section 22. The requirements of this Act shall apply to all procurements and acquisitions of interests in real property undertaken by, or for the benefit of, the Department of Fish and Wildlife Resources, including procurements and acquisitions of interests in real property that commenced prior to the effective date of this Act.

➔Section 23. Whereas it is critical to the proper administration of the Department of Fish and Wildlife Resources that its procurements and acquisitions of interests in real property are completed in a timely manner, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Veto Overridden March 29, 2023.

(HB 4)

AN ACT relating to merchant electric generating facilities and making an appropriation therefor.

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

➔Section 1. KRS 278.702 is amended to read as follows:

- (1) There is hereby established the Kentucky State Board on Electric Generation and Transmission Siting. The board shall be composed of seven (7) members as follows:
 - (a) The three (3) members of the Kentucky Public Service Commission;
 - (b) The secretary of the Energy and Environment Cabinet or the secretary's designee;
 - (c) The secretary of the Cabinet for Economic Development or the secretary's designee;
 - (d) 1. If the facility subject to board approval is proposed to be located in one (1) county, two (2) ad hoc public members to be appointed by the Governor from a county where a facility subject to board approval is proposed to be located:
 - a. One (1) of the ad hoc public members shall be the chairman of the planning commission with jurisdiction over an area in which a facility subject to board approval is proposed to be located. If the proposed location is not within a jurisdiction with a planning commission, then the Governor shall appoint either the county judge/executive of a county that contains the proposed location of the facility or the mayor of a city, if the facility is proposed to be within a city; and
 - b. One (1) of the ad hoc public members shall be appointed by the Governor and shall be a resident of the county in which the facility is proposed to be located.
 2. If the facility subject to board approval is proposed to be located in more than one (1) county, two (2) ad hoc public members to be chosen as follows:
 - a. One (1) ad hoc public member shall be the county judge/executive of a county in which the facility is proposed to be located, to be chosen by majority vote of the county judge/executives of the counties in which the facility is proposed to be located; and
 - b. One (1) ad hoc public member shall be a resident of a county in which the facility is proposed to be located, and shall be appointed by the Governor.

If a member has not been chosen by majority vote, as provided in subdivision a. of this subparagraph, by thirty (30) days after the filing of the application, the Governor shall directly appoint the member.
 3. Ad hoc public members appointed to the board shall have no direct financial interest in the facility proposed to be constructed.
- (2) The term of service for the ad hoc members of the board shall continue until the **merchant electric generating facility**~~board issues a final determination in the proceeding~~ for which they were appointed **has been constructed and begins generating electricity for sale or the construction certificate expires**. The remaining members of the board shall be permanent members.
- (3) The board shall be attached to the Public Service Commission for administrative purposes. The commission staff shall serve as permanent administrative staff for the board. The members of the board identified in subsection (1)(a) to (d) of this section shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement KRS 278.700 to 278.716.
- (4) No member of the board shall receive any salary or fee for service on the board or shall have any financial interest in any facility the application for which comes before the board, but each member shall be reimbursed for actual travel and expenses directly related to service on the board.
- (5) The chairman of the Public Service Commission shall be the chairman of the board. The chairman shall designate one (1) member of the board as vice chairman. A majority of the members of the board shall constitute a quorum for the transaction of business. No vacancy on the board shall impair the right of the remaining members to exercise all of the powers of the board. The board shall convene upon the call of the chairman.

➔Section 2. KRS 278.704 is amended to read as follows:

- (1) No person shall commence to construct a merchant electric generating facility until that person has applied for and obtained a construction certificate for the facility from the board. The construction certificate shall be valid for a period of **three (3)**~~two (2)~~ years after the issuance date of the last permit required to be obtained from the Energy and Environment Cabinet after which the certificate shall be void. The certificate shall be conditioned upon the applicant obtaining necessary air, water, and waste permits. If an applicant has not obtained all necessary permits and has not commenced to construct prior to the expiration date of the certificate, the applicant shall be required to obtain a **new** valid certificate from the board.
- (2) Except as provided in subsections (3), (4), and (5) of this section, no construction certificate shall be issued to construct a merchant electric generating facility unless the exhaust stack of the proposed facility and any wind turbine is at least one thousand (1,000) feet from the property boundary of any adjoining property owner and all proposed structures or facilities used for generation of electricity are two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility. For purposes of applications for site compatibility certificates pursuant to KRS 278.216, only the exhaust stack of the proposed facility to be actually used for coal or gas-fired generation or, beginning with applications for site compatibility certificates filed on or after January 1, 2015, the proposed structure or facility to be actually used for solar or wind generation shall be required to be at least one thousand (1,000) feet from the property boundary of any adjoining property owner and two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility.
- (3) If the merchant electric generating facility is proposed to be located in a county or a municipality with planning and zoning, then **decommissioning and** setback requirements from a property boundary, residential neighborhood, school, hospital, or nursing home facility may be established by the planning and zoning commission. Any **decommissioning requirement or** setback established by a planning and zoning commission for a facility in an area over which it has jurisdiction shall:
 - (a) Have primacy over the **decommissioning requirements in subsection (2)(m) of Section 3 of this Act and the** setback requirement in subsections (2) and (5) of this section; and
 - (b) Not be subject to modification or waiver by the board through a request for deviation by the applicant, as provided in subsection (4) of this section **or otherwise**.
- (4) The board may grant a deviation from the requirements of subsection (2) of this section on a finding that the proposed facility is designed to and, as located, would meet the goals of KRS 224.10-280, 278.010, 278.212, 278.214, 278.216, 278.218, and 278.700 to 278.716 at a distance closer than those provided in subsection (2) of this section.
- (5) If the merchant electric generating facility is proposed to be located on a site of a former coal processing plant in the Commonwealth where the electric generating facility will utilize on-site waste coal as a fuel source, then the one thousand (1,000) foot property boundary requirement in subsection (2) of this section shall not be applicable; however, the applicant shall be required to meet any other setback requirements contained in subsection (2) of this section.
- (6) If requested, a merchant electric generating entity considering construction of a facility for the generation of electricity or a person acting on behalf of such an entity shall hold a public meeting in any county where acquisition of real estate or any interest in real estate is being considered for the facility. A request for such a meeting may be made by the commission, or by any city or county governmental entity, including a board of commissioners, planning and zoning, fiscal court, mayor, or county judge/executive. The meeting shall be held not more than thirty (30) days from the date of the request.
- (7) The purpose of the meeting under subsection (6) of this section is to fully inform landowners and other interested parties of the full extent of the project being considered, including the project time line. One (1) or more representatives of the entity with full knowledge of all aspects of the project shall be present and shall answer questions from the public.
- (8) Notice of the time, subject, and location of the meeting under subsection (6) of this section shall be posted in both a local newspaper, if any, and a newspaper of general circulation in the county. Notice shall also be placed on the **websites**~~Web sites~~ of the unregulated entity, and any local governmental unit. Owners of real estate known to be included in the project and any person whose property adjoins at any point any property to be included in the project shall be notified personally by mail. All notices must be mailed or posted at least two (2) weeks prior to the meeting.

- (9) The merchant electric generating entity or a person acting on behalf of a merchant electric generating entity shall, on or before the date of the public meeting held under subsection (6) of this section, provide notice of all research, testing, or any other activities being planned or considered to:
- (a) The Energy and Environment Cabinet;
 - (b) The Public Service Commission;
 - (c) The Transportation Cabinet;
 - (d) The Attorney General; and
 - (e) The Office of the Governor.

- (10) ~~[A person that, on or before April 10, 2014, has started acquiring interests in real estate for a project as described in subsection (6) of this section shall hold a meeting that complies with this section within thirty (30) days of April 10, 2014.]~~

- ~~(11)~~ Subsections (6) to ~~(9)~~~~(10)~~ of this section shall not apply to any facility or project that has already received a certificate of construction from the board.

➔Section 3. KRS 278.706 is amended to read as follows:

- (1) Any person seeking to obtain a construction certificate from the board to construct a merchant electric generating facility shall file an application at the office of the Public Service Commission.
- (2) A completed application shall include the following:
 - (a) The name, address, and telephone number of the person proposing to construct and own the merchant electric generating facility;
 - (b) A full description of the proposed site, including a map showing the distance of the proposed site from residential neighborhoods, the nearest residential structures, schools, and public and private parks that are located within a two (2) mile radius of the proposed facility;
 - (c) Evidence of public notice that shall include the location of the proposed site and a general description of the project, state that the proposed construction is subject to approval by the board, and provide the telephone number and address of the Public Service Commission. Public notice shall be given within thirty (30) days immediately preceding the application filing to:
 - 1. Landowners whose property borders the proposed site; and
 - 2. The general public in a newspaper of general circulation in the county or municipality in which the facility is proposed to be located;
 - (d) A statement certifying that the proposed plant will be in compliance with all local ordinances and regulations concerning noise control and with any local planning and zoning ordinances. The statement shall also disclose setback requirements established by the planning and zoning commission as provided under KRS 278.704(3);
 - (e) If the facility is not proposed to be located on a site of a former coal processing plant and the facility will use on-site waste coal as a fuel source or in an area where a planning and zoning commission has established a setback requirement pursuant to KRS 278.704(3), a statement that the exhaust stack of the proposed facility and any wind turbine is at least one thousand (1,000) feet from the property boundary of any adjoining property owner and all proposed structures or facilities used for generation of electricity are two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility, unless facilities capable of generating ten megawatts (10MW) or more currently exist on the site. If the facility is proposed to be located on a site of a former coal processing plant and the facility will use on-site waste coal as a fuel source, a statement that the proposed site is compatible with the setback requirements provided under KRS 278.704(5). If the facility is proposed to be located in a jurisdiction that has established setback requirements pursuant to KRS 278.704(3), a statement that the proposed site is in compliance with those established setback requirements;
 - (f) A complete report of the applicant's public involvement program activities undertaken prior to the filing of the application, including:
 - 1. The scheduling and conducting of a public meeting in the county or counties in which the proposed facility will be constructed at least ninety (90) days prior to the filing of an application,

- for the purpose of informing the public of the project being considered and receiving comment on it;
2. Evidence that notice of the time, subject, and location of the meeting was published in the newspaper of general circulation in the county, and that individual notice was mailed to all owners of property adjoining the proposed project at least two (2) weeks prior to the meeting; and
 3. Any use of media coverage, direct mailing, fliers, newsletters, additional public meetings, establishment of a community advisory group, and any other efforts to obtain local involvement in the siting process;
- (g) A summary of the efforts made by the applicant to locate the proposed facility on a site where existing electric generating facilities are located;
- (h) Proof of service of a copy of the application upon the chief executive officer of each county and municipal corporation in which the proposed facility is to be located, and upon the chief officer of each public agency charged with the duty of planning land use in the jurisdiction in which the facility is proposed to be located;
- (i) An analysis of the proposed facility's projected effect on the electricity transmission system in Kentucky;
- (j) An analysis of the proposed facility's economic impact on the affected region and the state;
- (k) A detailed listing of all violations by it, or any person with an ownership interest, of federal or state environmental laws, rules, or administrative regulations, whether judicial or administrative, where violations have resulted in criminal convictions or civil or administrative fines exceeding five thousand dollars (\$5,000). The status of any pending action, whether judicial or administrative, shall also be submitted; ~~and~~
- (l) A site assessment report as specified in KRS 278.708. The applicant may submit and the board may accept documentation of compliance with the National Environmental Policy Act (NEPA) rather than a site assessment report; *and*
- (m) *A decommissioning plan that shall describe how the merchant electric generating facility will be decommissioned and dismantled following the end of its useful life. The decommissioning plan shall, at a minimum, include plans to:*
1. *Unless otherwise requested by the landowner, remove all above-ground facilities;*
 2. *Unless otherwise requested by the landowner, remove any underground components and foundations of above-ground facilities. Facilities removed under this subparagraph shall be removed to a depth of three (3) feet below the surface grade of the land in or on which the component was installed, unless the landowner and the applicant otherwise agree to a different depth;*
 3. *Return the land to a substantially similar state as it was prior to the commencement of construction;*
 4. *Unless otherwise requested by the landowner, leave any interconnection or other facilities in place for future use at the completion of the decommissioning process;*
 5. *Secure a bond or other similar security for the project to assure financial performance of the decommissioning obligation, provided that:*
 - a. *The amount of the proposed bond or similar security shall be determined by an independent, licensed engineer who is experienced in the decommissioning of solar electric generating facilities and has no financial interest in either the merchant electric generating facility or any parcel of land upon which the merchant electric generating facility is located. The proposed amount of the bond or similar security shall be either:*
 - i. *The net present value of the total estimated cost of completing the decommissioning plan, less the current net salvage value of the merchant electric generating facility's components; or*
 - ii. *The bond amount required by a county or municipal government that has*

established a decommissioning bond requirement or similar security obligation in the county or municipality where the merchant electric generating facility will be located. If the facility will be located in more than one (1) county or municipality that has established a decommissioning bond or similar security obligation, then the higher amount shall be required for the facility;

- b. The bond or other similar security names:

 - i. For property that is leased by the applicant, each landowner from whom the applicant leases land and the Energy and Environment Cabinet as the primary co-beneficiaries; or*
 - ii. For property that is owned by the applicant, the Energy and Environment Cabinet as the primary beneficiary;**
- c. If the merchant electric generating facility is to be located in a county or municipality that has not established a decommissioning bond or other similar security obligation, the bond or other similar security shall name the county or municipality as a secondary beneficiary with the county's or municipality's consent;*
- d. The bond or other similar security shall be provided by an insurance company or surety that shall at all times maintain at least an "Excellent" rating as measured by the AM Best rating agency or an investment grade credit rating by any national credit rating agency and, if available, shall be noncancelable by the provider or the customer until completion of the decommissioning plan or until a replacement bond is secured; and*
- e. The bond or other similar security shall provide that at least thirty (30) days prior to its cancellation or lapse, the surety shall notify the applicant, its successor or assign, each landowner, the Energy and Environment Cabinet, and the county or city in which the facility is located of the impending cancellation or lapse. The notice shall specify the reason for the cancellation or lapse and provide any of the parties, either jointly or separately, the opportunity to cure the cancellation or lapse prior to it becoming effective. The applicant, its successor, or its assign, shall be responsible for all costs incurred by all parties to cure the cancellation or lapse of the bond. Each landowner, or the Energy and Environment Cabinet with the prior approval of each landowner, may make a demand on the bond and initiate and complete the decommissioning plan.*
- 6. Communicate with each affected landowner at the end of the merchant electric generating facility's useful life so that any requests of the landowner that are in addition to the minimum requirements set forth in this paragraph and in addition to any other requirements specified in the lease with the landowner may, in the sole discretion of the applicant or its successor or assign, be accommodated; and*
- 7. Incorporate the requirements of paragraph (m)1. to 6. of this subsection into the applicant's leases with landowners.*

- (3) Application fees for a construction certificate shall be set by the board and deposited into a trust and agency account to the credit of the commission.
- (4) Replacement of a merchant electric generating facility with a like facility, or the repair, modification, retrofitting, enhancement, or reconfiguration of a merchant electric generating facility shall not, for the purposes of this section and KRS 224.10-280, 278.704, 278.708, 278.710, and 278.712, constitute construction of a merchant electric generating facility.
- (5) The board shall promulgate administrative regulations prescribing fees to pay expenses associated with its review of applications filed with it pursuant to KRS 278.700 to 278.716. All application fees collected by the board shall be deposited in a trust and agency account to the credit of the Public Service Commission. If a majority of the members of the board find that an applicant's initial fees are insufficient to pay the board's expenses associated with the application, including the board's expenses associated with legal review thereof, the board shall assess a supplemental application fee to cover the additional expenses. An applicant's failure to pay a fee assessed pursuant to this subsection shall be grounds for denial of the application.

➔ Section 4. KRS 278.708 is amended to read as follows:

- (1) Any person proposing to construct a merchant electric generating facility shall file a site assessment report with the board as required under KRS 278.706(2)(1).
- (2) A site assessment report shall be prepared by the applicant or its designee.
- (3) A completed site assessment report shall include:
 - (a) A description of the proposed facility that shall include a proposed site development plan that describes:
 1. Surrounding land uses for residential, commercial, agricultural, and recreational purposes;
 2. The legal boundaries of the proposed site;
 3. Proposed access control to the site;
 4. The location of facility buildings, transmission lines, and other structures;
 5. Location and use of access ways, internal roads, and railways;
 6. Existing or proposed utilities to service the facility;
 7. Compliance with applicable setback requirements as provided under KRS 278.704(2), (3), (4), or (5); and
 8. Evaluation of the noise levels expected to be produced by the facility;
 - (b) An evaluation of the compatibility of the facility with scenic surroundings;
 - (c) The potential changes in property values and land use resulting from the siting, construction, and operation of the proposed facility for property owners adjacent to the facility;
 - (d) Evaluation of anticipated peak and average noise levels associated with the facility's construction and operation at the property boundary; and
 - (e) The impact of the facility's operation on road and rail traffic to and within the facility, including anticipated levels of fugitive dust created by the traffic and any anticipated degradation of roads and lands in the vicinity of the facility.
- (4) The site assessment report shall also suggest any mitigating measures to be implemented by the applicant to minimize or avoid adverse effects identified in the site assessment report.
- (5) The board shall have the authority to hire a consultant to review the site assessment report and provide recommendations concerning the adequacy of the report and proposed mitigation measures. The board may direct the consultant to prepare a separate site assessment report. Any expenses or fees incurred by the board's hiring of a consultant shall be borne by the applicant.
- (6) The applicant shall be given the opportunity to present evidence to the board regarding any mitigation measures. As a condition of approval for an application to obtain a construction certificate, the board may require the implementation of any mitigation measures that the board deems appropriate. ***Ongoing compliance with any mitigation measures that were conditions of construction certificate application approval shall be enforced by the Energy and Environment Cabinet pursuant to subsection (9) of Section 5 of this Act.***

➔Section 5. KRS 278.710 is amended to read as follows:

- (1) Within one hundred twenty (120) days of receipt of an administratively complete application, or within one hundred eighty (180) days of receipt of an administratively complete application if a hearing is requested, the board shall, by majority vote, grant or deny a construction certificate, either in whole or in part, based upon the following criteria:
 - (a) Impact of the facility on scenic surroundings, property values, the pattern and type of development of adjacent property, and surrounding roads;
 - (b) Anticipated noise levels expected as a result of construction and operation of the proposed facility;
 - (c) The economic impact of the facility upon the affected region and the state;
 - (d) Whether the facility is proposed for a site upon which existing generating facilities, capable of generating ten megawatts (10MW) or more of electricity, are currently located;
 - (e) Whether the proposed facility will meet all local planning and zoning requirements that existed on the date the application was filed;

- (f) Whether the additional load imposed upon the electricity transmission system by use of the merchant electric generating facility will adversely affect the reliability of service for retail customers of electric utilities regulated by the Public Service Commission;
 - (g) Except where the facility is subject to a statewide setback established by a planning and zoning commission as provided in KRS 278.704(3) and except for a facility proposed to be located on a site of a former coal processing plant and the facility will use on-site waste coal as a fuel source, whether the exhaust stack of the proposed merchant electric generating facility and any wind turbine is at least one thousand (1,000) feet from the property boundary of any adjoining property owner and all proposed structures or facilities used for generation of electricity are two thousand (2,000) feet from any residential neighborhood, school, hospital, or nursing home facility, unless a different setback has been requested and approved under KRS 278.704(4). If a planning and zoning commission has established setback requirements that differ from those under KRS 278.704(2), the applicant shall provide evidence of compliance. If the facility is proposed to be located on site of a former coal processing plant and the facility will use on-site waste coal as a fuel source, the applicant shall provide evidence of compliance with the setback requirements provided in KRS 278.704(5);
 - (h) The efficacy of any proposed measures to mitigate adverse impacts that are identified pursuant to paragraph (a), (b), (e), or (f) of this subsection from the construction or operation of the proposed facility;~~and~~
 - (i) Whether the applicant has a good environmental compliance history; *and*
 - (j) *Whether the decommissioning plan is complete and complies with the requirements of subsection (2)(m) of Section 3 of this Act and any other local requirements that may apply.*
- (2) When considering an application for a construction certificate for a merchant electric generating facility, the board may consider the policy of the General Assembly to encourage the use of coal as a principal fuel for electricity generation as set forth in KRS 152.210, provided that any facility, regardless of fuel choice, shall comply fully with KRS 224.10-280, 278.212, 278.216, and 278.700 to 278.716.
- (3) A person that has received a construction certificate for a merchant electric generating facility shall:
- (a) *File with the Energy and Environment Cabinet the copy of the bond or other similar security that, pursuant to subsection (2)(m)5. of Section 3 of this Act, is required by a county or a municipal government or as part of a decommissioning plan, no later than the date upon which the construction of the merchant generating facility commences, and refile an updated copy at least once every five (5) years thereafter;*
 - (b) Not transfer rights and obligation under the certificate without having first applied for and received a board determination that:
 - 1.~~{(a)}~~ The acquirer has a good environmental compliance history; and
 - 2.~~{(b)}~~ The acquirer has the financial, technical, and managerial capacity to meet the obligations imposed by the terms of the approval or has the ability to contract to meet these obligations;
 - (c) *File with the Energy and Environment Cabinet a notice of the date that construction is complete and the merchant electric generating facility begins producing electricity for sale; and*
 - (d) *Following the date the merchant electric generating facility begins producing electricity for sale, file a notice of any transaction involving the transfer or sale of ownership, control, or the right to control the merchant electric generating facility, with lessors of property where the merchant electric generating facility is located, the Energy and Environment Cabinet, the county judge/executive of a county and, if applicable, the mayor of a municipality in which the merchant electric generating facility is located, within ten (10) days of completing the transaction. The notice shall include the name, street address, telephone number, and e-mail address of the person acquiring ownership, control, or the right to control the merchant electric generating facility.*
- (4) *A person that has acquired ownership, control, or the right to control a merchant electric generating facility from the applicant or its successor or assign shall file with the Energy and Environment Cabinet within ten (10) days of completing the acquisition:*
- (a) *A written consent to assume the obligations set forth in the decommissioning plan as of the date the acquisition occurred; and*

- (b) *A notice of adoption of an existing bond or other similar security previously filed pursuant to subsection (3)(a) of this section or a replacement bond or other similar security that complies with subsection (2)(m)5. of Section 3 of this Act. An existing bond or other similar security shall be adopted, or a replacement bond or other similar security shall be in place, as of the date the acquisition occurs so that there is no lapse in coverage of the decommissioning bond or other similar security. A person making a filing pursuant to this subsection shall file an updated bond or other similar security that complies with subsection (2)(m)5. of Section 3 of this Act at least once every five (5) years.*
- (5) *Any person who transfers or sells ownership, control, or the right to control a merchant electric generating facility shall remain liable for all existing decommissioning obligations and bond requirements until the person who acquires ownership, control, or the right to control the merchant electric generating facility files with the Energy and Environment Cabinet the documents required by subsection (4) of this section and they are accepted as complete by the secretary.*
- (6) *Any application approval condition that requires the approval of the transfer of control of a merchant electric generating facility after construction is complete shall be void and unenforceable, but any transfer of control of a merchant electric generating facility shall be subject to compliance with the requirements of subsections (3)(d), (4), and (5) of this section.*
- (7) *Notwithstanding any provision of law to the contrary, including any order issued by the board prior to the effective date of this Act, after the board has approved an application for a construction certificate for a merchant electric generating facility under this section, the approved applicant has posted the bond or similar security required under subsection (2)(m)5. of Section 3 of this Act, and the facility is constructed and begins generating electricity for sale, the board's authority to enforce any conditions of the construction certificate, including bonding and decommissioning requirements, shall end and the secretary of the Energy and Environment Cabinet shall monitor and enforce the construction certificate holder's compliance with the requirements of KRS 278.700 to 278.716 and the conditions of its construction certificate application approval.*
- (8) *In addition to all compliance monitoring and enforcement performed by the secretary of the Energy and Environment Cabinet, and notwithstanding any provision of law to the contrary, the secretary shall also review the decommissioning plan required by subsection (2)(m) of Section 3 of this Act or by local ordinance, license, or permit and the bond or similar security amount required by subsection (2)(m)5. of Section 3 of this Act or by local ordinance, license, or permit as needed, including any time a transfer determination is made under subsection (5) of this section, but in any event at least once every five (5) years. Upon review, the secretary of the Energy and Environment Cabinet shall require the decommissioning plan to be updated and the bond amount to be changed to match any significant change in circumstances or change to the estimated cost of effectuating the decommissioning plan or to the salvage value of the facility or its components.*
- (9) *After the facility for which an application for a construction certificate has been approved is constructed and begins generating electricity for sale, the secretary of the Energy and Environment Cabinet shall ensure ongoing compliance with the mitigation measures that were conditions of the application approval under subsection (6) of Section 4 of this Act and any enforcement by the board of the mitigation measures shall cease.*
- (10) *During the period that the merchant electric generating facility is operational, if solar panels are replaced and discarded, the facility owner-operator shall remove discarded solar panels from the site within ninety (90) days of completion of the work. Upon request of the facility owner-operator, the secretary of the Energy and Environment Cabinet may extend the time period under this subsection for removing discarded solar panels.*

➔Section 6. KRS 278.718 is amended to read as follows:

The provisions of KRS 278.700, 278.704, 278.706, 278.708, and 278.710 shall ~~be in addition to, and shall~~ not supplant, any other state or federal law, including the powers available to local governments under the provisions of home rule under KRS 67.080, 67.083, 67.850, 67.922, 67A.060, 67C.101, and 82.082. *An ordinance, permit, or license issued by a local government shall have primacy over the provisions and requirements of KRS 278.700 and Sections 2, 3, and 4 of this Act, and any conflict between an order of the board and a local ordinance, permit, or license shall be resolved in favor of the local government's ordinance, permit, or license.*

➔Section 7. KRS 224.10-100 is amended to read as follows:

In addition to any other powers and duties vested in it by law, the cabinet shall have the authority, power, and duty to:

- (1) Exercise general supervision of the administration and enforcement of this chapter, and all rules, regulations, and orders promulgated thereunder;
- (2) Prepare and develop a comprehensive plan or plans related to the environment of the Commonwealth;
- (3) Encourage industrial, commercial, residential, and community development which provides the best usage of land areas, maximizes environmental benefits, and minimizes the effects of less desirable environmental conditions;
- (4) Develop and conduct a comprehensive program for the management of water, land, and air resources to assure their protection and balance utilization consistent with the environmental policy of the Commonwealth;
- (5) Provide for the prevention, abatement, and control of all water, land, and air pollution, including but not limited to that related to particulates, pesticides, gases, dust, vapors, noise, radiation, odor, nutrients, heated liquid, or other contaminants;
- (6) Provide for the control and regulation of surface coal mining and reclamation in a manner to accomplish the purposes of KRS Chapter 350;
- (7) Secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;
- (8) Collect and disseminate information and conduct educational and training programs relating to the protection of the environment;
- (9) Appear and participate in proceedings before any federal regulatory agency involving or affecting the purposes of the cabinet;
- (10) Enter and inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with this chapter, or any regulation which may be promulgated thereunder;
- (11) Conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books, and records by the issuance of subpoenas;
- (12) Accept, receive, and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of the cabinet. The funds received by the cabinet shall be deposited in the State Treasury to the account of the cabinet;
- (13) Request and receive the assistance of any state or municipal educational institution, experiment station, laboratory, or other agency when it is deemed necessary or beneficial by the cabinet in the performance of its duties;
- (14) Advise, consult, and cooperate with other agencies of the Commonwealth, other states, the federal government, and interstate and interlocal agencies, and affected persons, groups, and industries;
- (15) Formulate guides for measuring presently unidentified environmental values and relationships so they can be given appropriate consideration along with social, economic, and technical considerations in decision making;
- (16) Monitor the environment to afford more effective and efficient control practices, to identify changes and conditions in ecological systems, and to warn of emergency conditions;
- (17) Adopt, modify, or repeal with the recommendation of the commission any standard, regulation, or plan;
- (18) Issue, after hearing, orders abating activities in violation of this chapter, or the provisions of this chapter, or the regulations promulgated pursuant thereto and requiring the adoption of the remedial measures the cabinet deems necessary;
- (19) Issue, continue in effect, revoke, modify, suspend, or deny under such conditions as the cabinet may prescribe and require that applications be accompanied by plans, specifications, and other information the cabinet deems necessary for the following permits:
 - (a) Permits to discharge into any waters of the Commonwealth, and for the installation, alteration, expansion, or operation of any sewage system; however, the cabinet may refuse to issue the permits to any person, or any partnership, corporation, etc., of which the person owns more than ten percent (10%) interest, who has improperly constructed, operated, or maintained a sewage system willfully, through

- negligence, or because of lack of proper knowledge or qualifications until the time that person demonstrates proper qualifications to the cabinet and provides the cabinet with a performance bond;
- (b) Permits for the installation, alteration, or use of any machine, equipment, device, or other article that may cause or contribute to air pollution or is intended primarily to prevent or control the emission of air pollution; or
 - (c) Permits for the establishment or construction and the operation or maintenance of waste disposal sites and facilities;
- (20) May establish, by regulation, a fee or schedule of fees for the cost of processing applications for permits authorized by this chapter, and for the cost of processing applications for exemptions or partial exemptions which may include but not be limited to the administrative costs of a hearing held as a result of the exemption application, except that applicants for existing or proposed publicly owned facilities shall be exempt from any charge, other than emissions fees assessed pursuant to KRS 224.20-050, and that certain nonprofit organizations shall be charged lower fees to process water discharge permits under KRS 224.16-050(5);
- (21) May require for persons discharging into the waters or onto the land of the Commonwealth, by regulation, order, or permit, technological levels of treatment and effluent limitations;
- (22) Require, by regulation, that any person engaged in any operation regulated pursuant to this chapter install, maintain, and use at such locations and intervals as the cabinet may prescribe any equipment, device, or test and the methodologies and procedures for the use of the equipment, device, or test to monitor the nature and amount of any substance emitted or discharged into the ambient air or waters or land of the Commonwealth and to provide any information concerning the monitoring to the cabinet in accordance with the provisions of subsection (23) of this section;
- (23) Require by regulation that any person engaged in any operation regulated pursuant to this chapter file with the cabinet reports containing information as to location, size, height, rate of emission or discharge, and composition of any substance discharged or emitted into the ambient air or into the waters or onto the land of the Commonwealth, and such other information the cabinet may require;
- (24) Promulgate regulations, guidelines, and standards for waste planning and management activities, approve waste management facilities, develop and publish a comprehensive statewide plan for nonhazardous waste management which shall contain but not be limited to the provisions set forth in KRS 224.43-345, and develop and publish a comprehensive statewide plan for hazardous waste management which shall contain but not be limited to the following:
- (a) A description of current hazardous waste management practices and costs, including treatment and disposal, within the Commonwealth;
 - (b) An inventory and description of all existing facilities where hazardous waste is being generated, treated, recycled, stored, or disposed of, including an inventory of the deficiencies of present facilities in meeting current hazardous waste management needs and a statement of the ability of present hazardous waste management facilities to comply with state and federal laws relating to hazardous waste;
 - (c) A description of the sources of hazardous waste affecting the Commonwealth including the types and quantities of hazardous waste currently being generated and a projection of such activities as can be expected to continue for not less than twenty (20) years into the future; and
 - (d) An identification and continuing evaluation of those locations within the Commonwealth which are naturally or may be engineered to be suitable for the establishment of hazardous waste management facilities, and an identification of those general characteristics, values, and attributes which would render a particular location unsuitable, consistent with the policy of minimizing land disposal and encouraging the treatment and recycling of the wastes.
- The statewide waste management plans shall be developed consistent with state and federal laws relating to waste;
- (25) Perform other acts necessary to carry out the duties and responsibilities described in this section;
- (26) Preserve existing clean air resources while ensuring economic growth by issuing regulations, which shall be no more stringent than federal requirements, setting maximum allowable increases from stationary sources over baseline concentrations of air contaminants to prevent significant deterioration in areas meeting the state and national ambient air quality standards;

- (27) Promulgate regulations concerning the bonding provisions of subsection (19)(a) of this section, setting forth bonding requirements, including but not limited to requirements for the amount, duration, release, and forfeiture of the bonds. All funds from the forfeiture of bonds required pursuant to this section shall be placed in the State Treasury and credited to a special trust and agency account which shall not lapse. The account shall be known as the "sewage treatment system rehabilitation fund" and all moneys placed in the fund shall be used for the elimination of nuisances and hazards created by sewage systems which were improperly built, operated, or maintained, and insofar as practicable be used to correct the problems at the same site for which the bond or other sureties were originally provided;
- (28) Promulgate administrative regulations not inconsistent with the provisions of law administered by the cabinet;{
and}
- (29) Through the secretary or designee of the secretary, enter into, execute, and enforce reciprocal agreements with responsible officers of other states relating to compliance with the requirements of KRS Chapters 350, 351, and 352 and the administrative regulations promulgated under those chapters;
- (30) Monitor and enforce the compliance of a merchant electric generating entity to which a construction certificate has been issued pursuant to Section 5 of this Act with respect to its obligations under subsections (3), (4), (5), (7), (8), (9) and (10) of Section 5 of this Act; and**
- (31) Draw upon a decommissioning bond or similar security for which it is named as a beneficiary and decommission and dismantle a merchant electric generating facility in accordance with its approved decommissioning plan.**

➔Section 8. KRS 224.99-010 is amended to read as follows:

- (1) Any person who violates KRS 224.10-110(2) or (3), 224.70-110, 224.73-120, 224.20-050, 224.20-110, 224.46-580, 224.1-400, or who fails to perform any duties imposed by these sections, or who violates any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars (\$25,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.
- (2) Any person who violates KRS 224.10-110(4) or (5), or KRS 224.40-100, 224.40-305, or any provision of this chapter relating to noise, or who fails to perform any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of five thousand dollars (\$5,000) for said violation and an additional civil penalty not to exceed five thousand dollars (\$5,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.
- (3) (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination or order of the cabinet promulgated pursuant to those sections which have become final shall be guilty of a Class A misdemeanor. Each day upon which the violation occurs shall constitute a separate violation.
- (b) For offenses by motor vehicles, a person shall be guilty of a violation.
- (4) Any person who knowingly violates KRS 224.70-110, 224.73-120, 224.40-100, 224.20-110, 224.20-050, 224.40-305, or 224.10-110(2) or (3), or any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant to those sections which have become final, or who knowingly provides false information in any document filed or required to be maintained under this chapter, or who knowingly renders inaccurate any monitoring device or method, or who tampers with a water supply, water purification plant, or water distribution system so as to knowingly endanger human life, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars (\$25,000), or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.
- (5) If any person engages in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of the hazardous waste management provisions of this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter, or fails to provide information or to meet reporting requirements required by terms and conditions of a permit or administrative regulations promulgated pursuant to this chapter, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty

not to exceed the sum of twenty-five thousand dollars (\$25,000) for each day during which the violation continues, and in addition, may be enjoined from any violations in a court of appropriate jurisdiction.

- (6) Any person who knowingly is engaged in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of this chapter or contrary to a permit, order, or administrative regulation issued or promulgated under this chapter, or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars (\$25,000) for each day of violation, or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which a violation occurs shall constitute a separate violation.
- (7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of any person to recover actual compensatory damages resulting from any violation.
- (8) Any person who violates any provision of this chapter to which no express penalty provision applies, except as provided in KRS 211.995, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars (\$1,000) for said violation and an additional civil penalty not to exceed one thousand dollars (\$1,000) for each day during which the violation continues, and in addition, may be concurrently enjoined from any violations as hereinafter provided in this section and KRS 224.99-020.
- (9) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the Attorney General on its behalf for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto, ***except for any actions arising from or related to subsections (3), (4), or (5) of Section 5 of this Act or subsection (16) of this section, which shall be brought in the Circuit Court in any county in which the merchant electric generating facility is located.***
- (10) Any person who deposits leaves, clippings, prunings, garden refuse, or household waste materials in any litter receptacle, except with permission of the owner of the receptacle, or who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him ***or her*** is guilty of a Class B misdemeanor. Penalties imposed under this subsection shall be, when collected, transferred to the county treasurer where the offense occurred and placed into a fund for solid waste cleanup. This subsection shall not be construed to divert any other fines assessed and collected by the cabinet or funds available to the cabinet for the purpose of remediation of open dumps.
- (11) In addition to or in lieu of the penalties set forth in this section or in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.
- (12) Any person who violates KRS 224.20-300, 224.20-310, any other provision of this chapter, or any determination, permit, administrative regulation, or order of the cabinet relating to the Asbestos Hazard Emergency Response Act of 1986 (AHERA), Public Law 99-519, as amended, shall be liable to the Commonwealth of Kentucky for a civil penalty in an amount not to exceed twenty-five thousand dollars (\$25,000) for each violation. Each day a violation continues shall, for purposes of this subsection, constitute a separate violation of provisions of this chapter relating to AHERA.
- (13) A violation of KRS 224.50-413 shall be subject to a fifty dollar (\$50) fine for each day the violation continues.
- (14) Any person who removes a methamphetamine contamination notice posted under KRS 224.1-410(9) contrary to the administrative regulations governing methamphetamine contamination notice removal shall be guilty of a Class A misdemeanor.
- (15) Any person who leases, rents, or sells a property that has been determined to be contaminated property under KRS 224.1-410(4) to a lessee, renter, or buyer without giving written notice that the property is a contaminated property pursuant to KRS 224.1-410(10) shall be guilty of a Class D felony.
- (16) ***Any person who violates subsection (3), (4), or (5) of Section 5 of this Act may be subject to civil penalties not to exceed two thousand five hundred dollars (\$2,500) per day. In determining the civil penalty to be imposed under this subsection, the cabinet shall consider all relevant circumstances including but not limited to the extent of harm or potential harm caused by the violation, the nature and duration of the violation, the number of past violations, and any corrective action taken by the merchant electric generating facility owner. If a merchant electric generating facility fails to pay any civil penalty for noncompliance***

under this subsection for a period of three hundred sixty-five (365) days after a final determination of the assessment of the civil penalty, or fails to post a bond or replacement bond in compliance with subsections (3), (4), or (5) of Section 5 of this Act within ninety (90) days of a final determination that the bond or replacement bond is required, the cabinet may order suspension of its operations until it is brought back into compliance and all civil penalties have been paid or the bond or replacement bond is posted. If after a final determination that the cabinet's order suspending operations of the facility is valid, and the merchant electric generating facility fails to bring the facility back into compliance by paying all outstanding civil penalties or posting the bond or replacement bond within ninety (90) days of that final determination, the cabinet may order the decommissioning of the facility to commence.

➔SECTION 9. A NEW SECTION OF SUBCHAPTER 10 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

- (1) *If the owner of a merchant electric generating facility fails to complete the decommissioning plan within eighteen (18) months of the date that the facility ceases to produce electricity for sale and the secretary has not extended the deadline, the cabinet shall draw upon the decommissioning bond and implement the decommissioning plan.*
- (2) *Within ninety (90) days of the effective date of this Act, the cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish the monitoring and enforcement requirements for the obligations set forth in subsections (3), (4), (5), (7), (8), (9) and (10) of Section 5 of this Act and subsections (30) and (31) of Section 7 of this Act. The cabinet shall establish a fee structure covering the entire useful life of a merchant electric generating facility to be charged to each facility for which the cabinet has monitoring and enforcement responsibilities. The fees collected shall be deposited in the restricted fund established in subsection (3) of this section.*
- (3)
 - (a) *There is hereby established in the State Treasury a restricted fund to be known as the merchant electric generating facility monitoring and enforcement fund, which shall be administered by the cabinet and shall consist of the fees collected under subsection (2) of this section and any moneys collected pursuant to enforcement actions taken by the cabinet in the course of performing its monitoring and enforcement responsibilities for merchant electric generating facilities.*
 - (b) *Amounts deposited in the fund shall only be used to defray the costs of the cabinet's monitoring and enforcement responsibilities for merchant electric generating facilities and for no other purpose.*
 - (c) *Notwithstanding KRS 45.229, fund amounts not expended at the close of the fiscal year shall not lapse, but shall be carried forward into the next fiscal year.*
 - (d) *Any interest earnings of the fund shall become part of the fund and shall not lapse.*
 - (e) *Moneys deposited in the fund are hereby appropriated for the purposes set forth in this subsection and shall not be appropriated or transferred by the General Assembly for any other purposes.*
- (4) *In carrying out its decommissioning plan and bond adequacy review under subsection (8) of Section 5 of this Act, the cabinet shall have the authority to hire a consulting independent licensed engineer to review the secured decommissioning bond or similar security instrument and decommissioning plan and provide recommendations concerning the adequacy of the security instrument to cover actual costs. The cabinet may direct the independent licensed engineer to prepare an assessment report. Any expenses or fees incurred by the cabinet's hiring of the independent licensed engineer shall be paid by the owner-operator of the merchant electric generating facility.*

Veto Overridden March 30, 2023.

CHAPTER 141

(HB 329)

AN ACT relating to government contract review and declaring an emergency.

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

➔Section 1. KRS 45A.705 is amended to read as follows:

- (1) There is hereby created a permanent committee of the Legislative Research Commission to be known as the Government Contract Review Committee. The committee shall be composed of eight (8) members appointed as follows: three (3) members of the Senate appointed by the President of the Senate; one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives. Members shall serve for terms of two (2) years, and the members appointed from each chamber shall elect one (1) member from their chamber to serve as co-chair. Any vacancy that may occur in the membership of the committee shall be filled by the appointing authority who made the original appointment.
- (2) On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be canceled by agreement of both co-chairs. The co-chairs shall have joint responsibilities for committee meeting agendas and presiding at committee meetings. A majority of the entire membership of the Government Contract Review Committee shall constitute a quorum, and all actions of the committee shall be by vote of a majority of its entire membership. The members of the committee shall be compensated for attending meetings, as provided in KRS 7.090(3).
- (3) Any professional, clerical, or other employees required by the committee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).
- (4) All proposed personal service contracts, tax incentive agreements, and memoranda of agreement received by the Legislative Research Commission shall be submitted to the committee to:
 - (a) Examine the stated need for the service or benefit to the Commonwealth of the motion picture or entertainment production;
 - (b) Examine whether the service could or should be performed by state personnel, for personal service contracts and memoranda of agreement;
 - (c) Examine the amount and duration of the contract or agreement; and
 - (d) Examine the appropriateness of any exchange of resources or responsibilities.
- (5) *The committee shall review a personal service contract, tax incentive agreement, or memorandum of agreement submitted to the Legislative Research Commission within forty-five (45) days of the date received.*
- (6) *If the committee determines that the contract service or agreement, other than:*
 - (a) *A contract necessary in the exercise of the enumerated powers specifically granted to the Governor pursuant to Sections 75, 76, 77, 78, 79, and 80 of the Constitution of Kentucky or any subsequent amendments to the Constitution of Kentucky which specifically designate enumerated powers to the Governor; or*
 - (b) *An emergency contract approved by the secretary of the Finance and Administration Cabinet or his or her designee;*

is not needed or inappropriate, the motion picture or entertainment production is not beneficial or is inappropriate, the service could or should be performed by state personnel, the amount or duration is excessive, or the exchange of resources or responsibilities are inappropriate, the committee shall attach a written notation of its nonbinding recommendations regarding the personal service contract, tax incentive agreement, or memorandum of agreement and shall forward the personal service contract, tax incentive agreement, or memorandum of agreement to the State Treasurer or his or her designee.
- (7) *Upon receipt of the committee's nonbinding recommendations regarding a personal service contract, tax incentive agreement, or memorandum of agreement, the State Treasurer or his or her designee shall determine whether the personal service contract, tax incentive agreement, or memorandum of agreement shall:*
 - (a)
 1. *Be revised by the Treasurer and returned to the secretary of the Finance and Administration Cabinet or his or her designee; and*
 2. *The Finance and Administration Cabinet or designee shall either:*
 - a. *Issue the contract with the Treasurer's revisions; or*

b. Cancel the contract;

(b) Be canceled and, if applicable, payment allowed for services rendered under the contract or amendment; or

(c) Remain effective as originally submitted.

~~(8) If the committee determines that the contract *executed pursuant to subsection (6)(a) or (b) of this section* [service or agreement, other than an emergency contract approved by the secretary of the Finance and Administration Cabinet or his or her designee,] is not needed or inappropriate, the motion picture or entertainment production is not beneficial or is inappropriate, the service could or should be performed by state personnel, the amount or duration is excessive, or the exchange of resources or responsibilities are inappropriate, the committee shall attach a written notation of *its nonbinding recommendations regarding* the [reasons for its disapproval or objection to the] personal service contract, tax incentive agreement, or memorandum of agreement and shall return the personal service contract, tax incentive agreement, or memorandum of agreement to the secretary of the Finance and Administration Cabinet or his or her designee. The committee shall act on a personal service contract, tax incentive agreement, or memorandum of agreement submitted to the Legislative Research Commission within forty five (45) days of the date received].~~

~~(9)[(6)(a)] Upon receipt of the committee's *nonbinding recommendations regarding* [disapproval or objection to] a personal service contract, tax incentive agreement, or memorandum of agreement *executed pursuant to subsection (6)(a) or (b) of this section*, the secretary of the Finance and Administration Cabinet or his or her designee shall determine whether the personal service contract, tax incentive agreement, or memorandum of agreement shall:~~

~~(a)[1.] Be revised to comply with the objections of the committee;~~

~~(b)[2.] Be canceled and, if applicable, payment allowed for services rendered under the contract or amendment; or~~

~~(c)[3.] Be appealed within ten (10) days to the State Treasurer, who shall make a final determination within ten (10) days of receipt of the appeal of whether the personal service contract, tax incentive agreement, or memorandum of agreement shall:~~

~~a. Be revised to comply with the objection of the committee;~~

~~b. Be canceled and, if applicable, payment allowed for services already rendered under the contract or amendment; or~~

~~e.] Remain effective as originally submitted.~~

~~[(b) Paragraph (a)3. of this subsection shall not apply to any personal service contract, tax incentive agreement, or memorandum of agreement insofar as the contract or agreement is based upon the enumerated powers specifically granted to the Governor pursuant to Sections 75, 76, 77, 78, 79, and 80 of the Constitution of Kentucky, or any subsequent amendments to the Constitution of Kentucky which specifically designate enumerated powers to the Governor.]~~

~~(10)[(7)] Contracting bodies shall make annual reports to the committee not later than December 1 of each year. The committee shall establish reporting procedures for contracting bodies related to personal service contracts, tax incentive agreements, and memoranda of agreement submitted by the secretary of the Finance and Administration Cabinet or his or her designee.~~

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

➔Section 3. Whereas the Government Contract Review Committee is a statutory committee meeting monthly and disposing instruments brought before it at those meetings, and it is imperative to ensure that the mechanisms envisioned by the Kentucky General Assembly are effectual, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Veto Overridden March 30, 2023.

CHAPTER 142

(HB 395)

AN ACT relating to project oversight of governmental information technology resources.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

As used in this section:

- (1) *"Board" means the Investments in Information Technology Improvement and Modernization Projects Oversight Board;*
- (2) *"Information technology system" means any related computer or telecommunication components that provide a functional system for a specific business purpose and contain one (1) or more of the following:*
 1. *Hardware;*
 2. *Software, including application software, systems management software, utility software, or communications software;*
 3. *Professional services for requirements analysis, system integration, installation, implementation, or data conversion services; or*
 4. *Digital data products, including acquisition and quality control; and*
- (3) *"State agency" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other entity of the executive, judicial, or legislative branch of state government.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

- (1) *The Investments in Information Technology Improvement and Modernization Projects Oversight Board is hereby established and shall consist of six (6) members to be appointed in accordance with the following:*
 - (a) *The Speaker of the House of Representatives shall appoint three (3) current members of the House of Representatives, one (1) of whom shall be designated co-chair, and at least one (1) of the three (3) members shall represent the minority party;*
 - (b) *The President of the Senate shall appoint three (3) current members of the Senate, one (1) of whom shall be designated co-chair, and at least one (1) of the three (3) members shall represent the minority party; and*
 - (c) *All members shall be active members of the Kentucky General Assembly during their terms of appointment.*
- (2) *Any vacancy on the board shall be filled in the same manner as the original appointment.*
- (3) *The co-chairs shall have joint responsibilities for board meetings, agendas, and presiding at board meetings.*
- (4) *On an alternating basis, each co-chair shall have the first option to set the monthly meeting date. A monthly meeting may be canceled by agreement of both co-chairs. The board shall meet at least twice during each calendar year.*
- (5) *Members of the board shall be entitled to reimbursement for expenses incurred in the performance of their duties.*
- (6) *A majority of the entire membership of the board shall constitute a quorum, and all actions of the board shall be by vote of a majority of its entire membership.*
- (7) *The purpose of the board is to:*
 - (a) *Review investment and funding strategies for projects to improve or modernize state agency information technology systems, including:*
 1. *Legacy system projects and cybersecurity projects; and*
 2. *The current and ongoing operation and maintenance of state agency information resources;*

- (b) *Determine the appropriate organizational structure for deployment of technology across the Commonwealth; and*
- (c) *Review the latest information technology developments trending across the nation.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 7A IS CREATED TO READ AS FOLLOWS:

- (1) *Not later than July 30, 2025, the board, in consultation with the Commonwealth Office of Technology, shall prescribe the form, contents, and manner of submission of the plan required under this section.*
- (2) *Each state agency shall submit the plan developed under this section to the:*
 - (a) *Commonwealth Office of Technology; and*
 - (b) *Board.*
- (3) *Not later than October 1, 2025, each state agency in the executive, legislative, and judicial branches of state government shall prepare an agency-wide plan outlining the manner in which the agency intends to transition its information technology and data-related services and capabilities into a modern, integrated, secure, and effective technological environment.*
- (4) (a) *On or before December 1, 2025, and biennially thereafter, the board shall provide a written report to the Legislative Research Commission that identifies:*
 - 1. *Existing and planned projects to improve or modernize state agency information technology systems; and*
 - 2. *The method of funding for each project identified by the board.*
- (b) *The written report to the Legislative Research Commission shall include:*
 - 1. *A recommendation by the board of the estimated amount necessary to fully fund to completion each project identified by the board; and*
 - 2. *Strategies developed by the board to ensure a long-term investment solution for projects to improve or modernize state agency information technology systems are in place, including strategies to:*
 - a. *Access the full amount of federal moneys available for those projects; and*
 - b. *Use information gathered by the department during previous projects to improve the management, oversight, and transparency of future projects.*

Veto Overridden March 30, 2023.

CHAPTER 143

(HB 519)

AN ACT relating to tourist and convention commissions in counties containing a city of the first class or a consolidated local government and declaring an emergency.

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

➔Section 1. KRS 91A.370 is amended to read as follows:

- (1) Except in a county containing a consolidated local government, the commission established pursuant to KRS 91A.350(1) shall be composed of nine (9) members to be appointed by the mayor of the largest city in the county, the county judge/executive and the Governor of the Commonwealth.
- (2) Except in a county containing a consolidated local government, the mayor of the largest city in the county shall appoint three (3) commissioners in the following manner:
 - (a) One (1) commissioner from a list submitted by the local city hotel and motel association;
 - (b) One (1) commissioner from a list submitted by the chamber of commerce of the largest city in the county; and

- (c) One (1) commissioner from a list submitted by the local restaurant association or associations.
- (3) Except in a county containing a consolidated local government, the county judge/executive shall, with the approval of the fiscal court, appoint three (3) commissioners in the following manner:
 - (a) One (1) commissioner from a list submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then the local hotel and motel association shall submit a list to the county judge/executive;
 - (b) One (1) commissioner from a list submitted by the board of directors of the largest incorporated Thoroughbred horse racing concern in the county, which list shall contain only directors, officers, or employees of that corporation; and
 - (c) One (1) commissioner who is a resident of the county and who has an active interest in the convention and tourist industry.
- (4) Except in a county containing a consolidated local government, the Governor shall appoint three (3) commissioners in the following manner:
 - (a) One (1) commissioner from a list submitted by the State Fair Board;
 - (b) One (1) commissioner from a list submitted by the local countywide air board; and
 - (c) One (1) commissioner shall be appointed, in those counties not containing a consolidated local government, who is a resident of the county. In those counties containing a consolidated local government, one (1) commissioner shall be appointed who is a resident of the area comprising the consolidated local government.
- (5) Vacancies shall be filled in the manner that original appointments are made.
- (6) When a list as provided in subsections (2) and (3) of this section contains less than three (3) names or when a selection from such list is not made, the appointing authority shall request in writing the submission of a new list of names.
- (7) Except in a county containing a consolidated local government, the commissioners shall be appointed for a term of three (3) years, provided that in making the initial appointments, the mayor, county judge/executive, and Governor of the Commonwealth shall each appoint one (1) commissioner for a term of one (1) year, one (1) commissioner for a term of two (2) years, and one (1) commissioner for a term of three (3) years.
- (8) Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the commission shall have ~~ten (10)~~ **ten (10)** ~~nine (9)~~ members. Six (6) members of the commission shall be appointed by the mayor of the consolidated local government pursuant to the provisions of KRS 67C.139 for a term of three (3) years. The Governor of the Commonwealth shall appoint three (3) members of the commission for a term of three (3) years. ***The president and chief executive officer of the Kentucky State Fair Board shall be a member of the commission and shall serve by virtue of his or her position.*** Incumbent members upon the establishment of the consolidated local government shall continue to serve as members of the board for the time remaining of their current term of appointment.
- (9) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purposes of KRS 91A.345 to 91A.394. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services, and other services and materials relating to the promotion of tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers, and printers.
- (10) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the mayor of a city or a consolidated local government, the county judge/executive in counties not containing a consolidated local government, and the Governor of the Commonwealth.
- (11) Commission members appointed by the Governor shall serve at the pleasure of the Governor. Commission members appointed by the mayor of a city or a consolidated local government or the county judge/executive may be removed as provided by KRS 65.007.
- (12) The commission shall comply with the provisions of KRS 65A.010 to 65A.090.

➔Section 2. Whereas it is important to add the expertise and contributions of the president and chief executive officer of the Kentucky State Fair Board to the tourist and convention commission at the earliest possible time, an emergency is declared to exist, and this Act takes effect upon its passage and approval by Governor or upon its otherwise becoming a law.

Veto Overridden March 30, 2023.

CHAPTER 144

(HB 568)

AN ACT relating to the public defender system.

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

➔Section 1. KRS 31.030 is amended to read as follows:

The authority and duties of the Department of Public Advocacy shall include but are not limited to:

- (1) Administering the statewide public advocacy system created by this chapter or by any other appropriate legislation or court decision;
- (2) ~~Providing technical aid to local counsel representing indigent persons;~~
- (3) ~~Assisting local counsel on appeals or taking appeals for local counsel, in the same manner as such appeals for the Commonwealth are presently handled by the Attorney General;~~
- (4) ~~Developing and promulgating standards and administrative regulations, rules, and procedures for administration of the defense of indigent defendants in criminal cases that the public advocate, statutes, or the courts determine are subject to public assistance;~~
- (3)~~(5)~~ Determining necessary personnel for the department and appointing staff attorneys, who shall be "assistant public advocates," and non-lawyer assistants within the merit system, subject to available funding and employee allotments;
- (4)~~(6)~~ Maintaining and exercising control over the department's information technology system, and working with the Commonwealth Office of Technology to ensure that the department's information technology is in conformity with the requirements of state government;
- ~~(7) Reviewing and approving local plans for providing counsel for indigent persons;~~
- (5)~~(8)~~ Conducting research into, and developing and implementing methods of, improving the operation of the criminal justice system with regard to indigent defendants and other defendants in criminal actions, including participation in groups, organizations, and projects dedicated to improving representation of defendants in criminal actions in particular, or the interests of indigent or impoverished persons in general;
- (6)~~(9)~~ Issuing rules, promulgating administrative regulations, and establishing standards as may be reasonably necessary to carry out the provisions of this chapter, the decisions of the United States Supreme Court, the decisions of the Kentucky Supreme Court, Court of Appeals, and other applicable court decisions or statutes;
- (7)~~(10)~~ Being authorized to pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of persons with disabilities;
- (8)~~(11)~~ Being authorized to purchase liability insurance for the protection of all full-time public advocates, deputy public advocates, and assistant public advocates to protect them from liability for malpractice arising in the course or scope of employment and for the protection of attorneys with whom the Department of Public Advocacy contracts to protect them from liability for malpractice arising in the course or scope of the contract;
- (9)~~(12)~~ Being authorized to seek and apply for and solicit funds for the operation of the defense of indigent persons or protection of the persons with disabilities programs from any source, public or private, and to receive donations, grants, awards, and similar funds from any legal source. Those funds shall be placed in a special account for the Department of Public Advocacy and those funds shall not lapse;

- (10)~~(13)~~ Being authorized to assign an attorney, including a conflict attorney under a plan, for good cause, at any stage of representation, including trial, appeal, or other post-conviction or post-disposition proceeding, including discharge revocation hearings, preliminary parole revocation hearings, and conditional discharge revocation hearings, regardless of whether the hearings are conducted by constitutional judges or executive branch administrative law judges;
- (11)~~(14)~~ Filing with the Legislative Research Commission an annual report, by September 30 of each year, setting forth the total number of cases assigned to the department, the average number of cases per department attorney, all funding available to the department, the average amount of state funds expended per assigned case, and any other information requested by the Legislative Research Commission or that the public advocate finds necessary to inform the General Assembly, the judicial or executive branches, or the public of the activities conducted by the department during the previous fiscal year; and
- (12)~~(15)~~ Do other activities and institute other programs as necessary to carry out the provisions of this chapter, or those decisions or statutes which are the subject of this section.

➔Section 2. KRS 31.211 is amended to read as follows:

- (1) At arraignment, the court shall conduct a nonadversarial hearing to determine whether a person who has requested a public defender is able to pay a partial fee for legal representation, the other necessary services and facilities of representation, and court costs. The court shall order payment in an amount determined by the court and may order that the payment be made in a lump sum or by installment payments to recover money for representation provided under this chapter. This partial fee determination shall be made at each stage of the proceedings.
- (2) If the partial fee, or any portion thereof, is not paid by the due date, the court's order is a civil judgment subject to collection under Civil Rule 69.03 and KRS Chapter 426.
- (3) ~~[All moneys received by the public advocate from indigent defendants pursuant to subsection (1) of this section shall be credited to the public advocate fund of the county in which the trial is held if the county has a plan pursuant to KRS 31.060 or 31.065(1) which has been approved by the public advocate pursuant to KRS 31.050. Moneys credited to a county public advocate fund may be used only to support the public advocate program of that county.]~~
- (4) ~~]~~All moneys collected by the public advocate from indigent defendants pursuant to subsection (1) of this section ~~[in counties with a local public advocacy system established by the public advocate pursuant to KRS 31.065(2)]~~ shall be credited to the Department of Public Advocacy special trust and agency account to be used to support the state public advocacy system.
- (4)~~(5)~~ If a person receives legal assistance or other benefit under this chapter to which he or she is not entitled or if a person receives legal assistance under this chapter and is financially able to pay for representation on the date the suit is brought, the public advocate, on behalf of the Commonwealth, shall recover, where practical, payment or reimbursement, as the case may be, from the person who received the legal assistance or his or her estate. Suit shall be brought within five (5) years after the date on which the aid was received.
- (5)~~(6)~~ **Department of Public Advocacy attorneys**~~[Any attorney participating in a public advocacy plan]~~ shall forward all information ~~that~~~~[which he or she may have which]~~ indicates that payment or reimbursement may be obtained pursuant to subsection (4)~~(5)~~ of this section.
- (6)~~(7)~~ The duty of recovery contemplated by subsection (4)~~(5)~~ of this section shall extend against persons who were the custodial parents or guardians of unemancipated minors at the time these minors were deemed needy as defined in KRS 31.100(5)(c) or (d).
- (7)~~(8)~~ All moneys collected under this section shall be placed in a special trust and agency account for the Department of Public Advocacy, and the funds shall not lapse.

➔Section 3. KRS 31.215 is amended to read as follows:

- (1) Except for attorneys appointed pursuant to KRS 620.100, 625.041, 625.080, and 31.120, no attorney **employed by the Department of Public Advocacy**~~[participating in a public advocacy plan]~~ shall accept any fees for the representation of any needy person as defined in this chapter from that person or anyone for his **or her** benefit and the fees for representation of that person shall be limited to the fees provided in this chapter. "Fees" shall include cash, property, or other pecuniary benefits of any kind.

- (2) Any attorney *employed by the Department of Public Advocacy* ~~[participating in a public advocacy plan]~~ who receives or attempts to collect a fee from a needy person as prohibited by subsection (1) above shall be guilty of a Class D felony.

➔Section 4. KRS 31.219 is amended to read as follows:

- (1) It shall be the duty of the attorney *employed by the Department of Public Advocacy* representing a client at trial ~~[under any public advocacy plan]~~ to file a notice of appeal if his or her client requests an appeal.
- (2) After the *trial* attorney *employed by the Department of Public Advocacy* has filed a notice of appeal as required by the Rules of Criminal Procedure, he or she shall forward to the *Appeals Branch of the* Department of Public Advocacy a copy of the final judgment, the notice of appeal, a statement of any errors committed in the trial of the case which should be raised on appeal, and a designation of that part of the record that is essential to the appeal.
- (3) Any ~~[public advocacy]~~ attorney *employed by the Department of Public Advocacy* who is representing a client on appeal *and* who after a conscientious examination of said appeal believes the appeal to be wholly frivolous after careful examinations of the record may request the court to which the appeal has been taken for permission to withdraw from the case. The attorney must file with that request a brief which sets forth any arguments which might possibly be raised on appeal. A copy of the request for permission to withdraw and the brief must be served upon the client in sufficient time so that the client may raise any argument he or she chooses to raise.

➔Section 5. KRS 31.235 is amended to read as follows:

If a court, after finding that the Department of Public Advocacy fails to provide an attorney to a person eligible for representation under KRS Chapter 31, appoints, under the court's inherent authority, an attorney to provide representation to the needy person, the public advocate is hereby authorized to pay reasonable and necessary fees and expenses subject to the following limitations:

- (1) No fee shall be paid in excess of the prevailing maximum fee per attorney paid by the Department of Public Advocacy for the type of representation provided, and no hourly rate shall be paid in excess of the prevailing hourly rate paid by the Department of Public Advocacy for the type of representation provided; and
- (2) Each fee plus expenses incurred in the defense shall be presented by the defense attorney to the Circuit Judge who shall review the fee and expenses request and shall approve, deny, or modify the amount of compensation and fee listed therein. After final approval of the fee and expenses the Circuit Judge shall, if state compensation is desired, certify the amount and transmit the document to the public advocate who shall review the fee and expense request and shall approve, deny, or modify the request. The request as approved or modified shall then be paid. Requests for payment of assigned counsel by the state shall be denied if ~~[the district has exceeded the amount of funds which may be allotted to it, if the district plan has not been approved, or if]~~ the public advocate finds that compensation is ~~[otherwise]~~ not warranted. The decision of the public advocate in all matters of fee and expense compensation shall be final.

➔Section 6. The following KRS sections are repealed:

- 31.050 Public advocacy plans -- Review and approval or denial by public advocate -- Funding by department and governmental unit -- Recordkeeping -- Annual report.
- 31.060 Local office in jurisdiction with ten or more Circuit Judges required -- Funding by governmental unit required in amount set by department.
- 31.065 Local office in county with less than ten Circuit Judges discretionary -- Methods of delivering services -- Requirements if county elects -- Department's responsibility if county does not elect.
- 31.071 Requirement if county elects local office -- Failure to provide attorney -- Responsibility for payment.
- 31.085 Plans must comply with department's rules and regulations.

➔Section 7. All employees, except for managers, of the Louisville Metro Public Defender's Office shall not be terminated without cause until the office has completed its merger with the Department of Public Advocacy.

➔Section 8. This Act takes effect July 1, 2024.

Veto Overridden March 30, 2023.

CHAPTER 145**(HJR 69)**

A JOINT RESOLUTION directing the Governor or his designee to certify to the Environmental Protection Agency that the Kentucky Board of Radon Safety has legal and administrative authority to enter into a grant with the EPA, including specifically the receipt and administration of EPA State Indoor Radon Grant funding.

WHEREAS, during the 2022 Regular Session of the Kentucky General Assembly, the General Assembly passed House Bill 77, which became law on July 14, 2022, and is codified as KRS 309.430 to 309.454; and

WHEREAS, House Bill 77 eliminated the state Radon Program under the Department for Public Health and created a new, independent board in the Public Protection Cabinet attached to the Department for Professional Licensing; and

WHEREAS, the General Assembly through House Bill 77 created the Kentucky Board of Radon Safety to, among other duties, "[e]nter into agreements with any federal or state agency, political subdivision, postsecondary educational institution, nonprofit organization, or other person or entity to assist with and administer grants received by the board, including but not limited to the Environmental Protection Agency State Indoor Radon Grant (SIRG) program"; and

WHEREAS, the General Assembly granted the Kentucky Board of Radon Safety the authority to promote the control of radon in Kentucky, including the development and implementation of programs for the evaluation and control of radon activities, and promulgate administrative regulations and conduct administrative hearings in accordance with KRS Chapters 13A and 13B, respectively, and transferred the responsibility for the radon contractor registration program from the Cabinet for Health and Family Services to the board; and

WHEREAS, on June 1, 2022, the EPA senior general law attorney corresponded with the secretary of the Public Protection Cabinet, to acknowledge the EPA's awareness of the passage of House Bill 77 and outline the requirements for the Governor to certify that "the board has legal and administrative authority to enter into a grant with the EPA"; and

WHEREAS, the EPA asked for a response to the certification within 14 calendar days of receipt of the letter, and 119 days later on September 27, 2022, the secretary of the Governor's executive cabinet responded to the EPA letter, stating the Cabinet for Health and Family Services remains the "lead state agency" for the SIRG funding, rather than recognizing the new board as designee, as now statutorily required by enacted legislation; and

WHEREAS, the Constitution of the Commonwealth of Kentucky divides the Commonwealth's power into three distinct branches of government. Section 29 vests the legislative power in the General Assembly, and the Kentucky Supreme Court has established that the shaping of public policy is the exclusive domain of the legislature. Section 69 vests the executive power in the Governor, who is required by Section 81 to "take care that the laws be faithfully executed" and, therefore, duty bound to follow Kentucky law as enacted by the General Assembly; and

WHEREAS, the General Assembly duly enacted House Bill 77, the Governor signed the bill into law on March 31, 2022, and KRS 309.434 clearly establishes the Kentucky Board of Radon Safety as the entity responsible for the regulation of all radon health and safety efforts within the state, including, specifically, the receipt and administration of EPA SIRG funding; and

WHEREAS, by writing the EPA on September 27, 2022, that the Cabinet for Health and Family Services remains the lead agency responsible for SIRG funding, the Governor has acted contrary to his constitutional duty to take care that KRS 309.434 be faithfully executed;

NOW, THEREFORE,

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

➔Section 1. It is the intent of the General Assembly that the Kentucky Board of Radon Safety be the state entity to receive and administer EPA SIRG funding in accordance with its statutory authority.

➔Section 2. The Governor or his designee is hereby directed to certify to the EPA that the Kentucky Board of Radon Safety has legal and administrative authority to enter into a grant with the EPA.

➔Section 3. The Clerk of the House is directed to transmit a copy of this Resolution to Governor Andy Beshear, State Capitol, Room 100, Frankfort, Kentucky 40601.

Veto Overridden March 30, 2023.

CHAPTER 146

(SB 47)

AN ACT relating to medicinal cannabis.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

For the purposes of Sections 1 to 30 of this Act, unless the context otherwise requires:

- (1) *"Bona fide practitioner-patient relationship" means a treating or consulting relationship, during the course of which a medicinal cannabis practitioner has:*
 - (a) *Completed an initial in-person examination and assessment of the patient's medical history and current medical condition;*
 - (b) *Consulted with the patient with respect to the possible medical, therapeutic, and palliative properties of medicinal cannabis;*
 - (c) *Advised the patient of the possible risks and side effects associated with the use of medicinal cannabis, including possible interactions between medicinal cannabis and any other drug or medication that the patient is taking at that time; and*
 - (d) *Established an expectation that he or she will provide follow-up care and treatment to the patient in accordance with administrative regulations promulgated pursuant to subsection (10) of Section 9 of this Act;*
- (2) *"Cabinet" means the Cabinet for Health and Family Services;*
- (3) *"Cannabis business" means an entity licensed under this chapter as a cultivator, dispensary, processor, producer, or safety compliance facility;*
- (4) *"Cannabis business agent" means a principal officer, board member, employee, volunteer, or agent of a cannabis business;*
- (5) *"Cardholder" means:*
 - (a) *A registered qualified patient, designated caregiver, or visiting qualified patient who has applied for, obtained, and possesses a valid registry identification card issued by the cabinet; or*
 - (b) *A visiting qualified patient who has obtained and possesses:*
 1. *A valid out-of-state registry identification card; and*
 2. *Documentation of having been diagnosed with a qualifying medical condition;*
- (6) *"Cultivator" means an entity licensed as such under Sections 15, 16, and 17 of this Act;*
- (7) *"Cultivator agent" means a principal officer, board member, employee, volunteer, or agent of a cultivator;*
- (8) *"Designated caregiver" means a person who has registered as such with the cabinet under Sections 10 and 11 of this Act;*
- (9) *"Dispensary" means an entity licensed as such under Sections 15, 16, and 17 of this Act;*
- (10) *"Dispensary agent" means a principal officer, board member, employee, volunteer, or agent of a dispensary;*
- (11) *"Disqualifying felony offense" means:*
 - (a) *A felony offense that would classify the person as a violent offender under KRS 439.3401; or*
 - (b) *A violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted, except:*

1. *An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed five (5) or more years earlier; or*
 2. *An offense that consisted of conduct for which Sections 1 to 30 of this Act would likely have prevented a conviction, but the conduct either occurred prior to the enactment of Sections 1 to 30 of this Act or was prosecuted by an authority other than the Commonwealth of Kentucky;*
- (12) *"Enclosed, locked facility" means an indoor growing space such as a room, greenhouse, building, or other indoor enclosed area that is maintained and operated by a cultivator or producer and is equipped with locks and other security devices that permit access only by authorized agents of the cultivator or producer, as required by the cabinet;*
- (13) *"Growth area" has the same meaning as an enclosed, locked facility;*
- (14) *"Marijuana" has the same meaning as in Section 34 of this Act;*
- (15) *"Medicinal cannabis":*
- (a) *Means marijuana as defined in Section 34 of this Act when cultivated, harvested, processed, produced, transported, dispensed, distributed, sold, possessed, or used in accordance with Sections 1 to 30 of this Act;*
 - (b) *Includes medicinal cannabis products and raw plant material; and*
 - (c) *Does not include industrial hemp or industrial hemp products as defined in Section 40 of this Act;*
- (16) *"Medicinal cannabis accessories" means any equipment, product, or material of any kind which is used, intended for use, or designed for use in the preparing, storing, using, or consuming medicinal cannabis in accordance with Sections 1 to 30 of this Act;*
- (17) *"Medicinal cannabis practitioner" means a physician or an advanced practice registered nurse who is authorized to prescribe controlled substances under KRS 314.042, who is authorized by his or her state licensing board to provide written certifications pursuant to Section 9 of this Act;*
- (18) *"Medicinal cannabis product":*
- (a) *Means any compound, manufacture, salt, derivative, mixture, or preparation of any part of the plant Cannabis sp., its seeds or its resin; or any compound, mixture, or preparation which contains any quantity of these substances when cultivated, harvested, processed, produced, transported, dispensed, distributed, sold, possessed, or used in accordance with Sections 1 to 30 of this Act; and*
 - (b) *Does not include industrial hemp products as defined in KRS Section 40 of this Act;*
- (19) *"Minor" means a person less than eighteen (18) years of age;*
- (20) *"Out-of-state registry identification card" means a registry identification card, or an equivalent document, that was issued pursuant to the laws of another state, district, territory, commonwealth, or insular possession of the United States;*
- (21) *"Processor" means an entity licensed as such under Sections 15, 16, and 17 of this Act;*
- (22) *"Processor agent" means a principal officer, board member, employee, volunteer, or agent of a processor;*
- (23) *"Producer" means an entity licensed as such under Sections 15, 16, and 17 of this Act;*
- (24) *"Producer agent" means a principal officer, board member, employee, volunteer, or agent of a producer;*
- (25) *"Qualified patient" means a person who has obtained a written certification from a medicinal cannabis practitioner with whom he or she has a bona fide practitioner-patient relationship;*
- (26) *"Qualifying medical condition" means:*
- (a) *Any type or form of cancer regardless of stage;*
 - (b) *Chronic, severe, intractable, or debilitating pain;*
 - (c) *Epilepsy or any other intractable seizure disorder;*
 - (d) *Multiple sclerosis, muscle spasms, or spasticity;*
 - (e) *Chronic nausea or cyclical vomiting syndrome that has proven resistant to other conventional medical treatments;*

- (f) *Post-traumatic stress disorder; and*
 - (g) *Any other medical condition or disease for which the Kentucky Center for Cannabis established in KRS 164.983, or its successor, determines that sufficient scientific data and evidence exists to demonstrate that an individual diagnosed with that condition or disease is likely to receive medical, therapeutic, or palliative benefits from the use of medicinal cannabis;*
- (27) *"Raw plant material":*
- (a) *Means the trichome-covered part of the female plant Cannabis sp. or any mixture of shredded leaves, stems, seeds, and flowers of the Cannabis sp. plant; and*
 - (b) *Does not include plant material obtained from industrial hemp as defined in Section 40 of this Act;*
- (28) *"Registered qualified patient" means a qualified patient who has applied for, obtained, and possesses a valid registry identification card or provisional registration receipt issued by the cabinet;*
- (29) *"Registry identification card" means a document issued by the cabinet that identifies a person as a registered qualified patient, visiting qualified patient, or designated caregiver;*
- (30) *"Safety compliance facility" means an entity licensed as such under Sections 15, 16, and 17 of this Act;*
- (31) *"Safety compliance facility agent" means a principal officer, board member, employee, volunteer, or agent of a safety compliance facility;*
- (32) *"Seedling" means a medicinal cannabis plant that has no flowers and is not taller than eight (8) inches;*
- (33) *"Serious violation" means:*
- (a) *Any violation of Sections 1 to 30 of this Act or any administrative regulation promulgated thereunder that is capable of causing death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;*
 - (b) *The diversion of medicinal cannabis for use not regulated pursuant to Sections 1 to 30 of this Act; or*
 - (c) *Any act that would constitute a violation of Section 35 of this Act;*
- (34) *"Smoking" means the inhalation of smoke produced from the combustion of raw plant material when ignited by a flame;*
- (35) *"State licensing board" means:*
- (a) *The Kentucky Board of Medical Licensure; or*
 - (b) *The Kentucky Board of Nursing;*
- (36) *"Telehealth" has the same meaning as in KRS 211.332;*
- (37) *"Use of medicinal cannabis":*
- (a) *Includes the acquisition, administration, possession, transfer, transportation, or consumption of medicinal cannabis or medicinal cannabis accessories by a cardholder in accordance with Sections 1 to 30 of this Act; and*
 - (b) *Does not include:*
 - 1. *Cultivation of marijuana by a cardholder;*
 - 2. *The use or consumption of marijuana by smoking; or*
 - 3. *The use of industrial hemp or industrial hemp products as defined in Section 40 of this Act;*
- (38) *"Visiting qualified patient" means a person who has registered as such through the cabinet as required under this chapter or who possesses a valid out-of-state registry identification card and documentation of having been diagnosed with a qualifying medical condition;*
- (39) *"Written certification" means a document dated and signed by a medicinal cannabis practitioner, that:*
- (a) *States, that in the medicinal cannabis practitioner's professional medical opinion, the patient may receive medical, therapeutic, or palliative benefit from the use of medicinal cannabis;*
 - (b) *Specifies the qualifying medical condition or conditions for which the medicinal cannabis practitioner believes the patient may receive medical, therapeutic, or palliative benefit; and*

- (c) *Affirms that the medicinal cannabis practitioner has a bona fide practitioner-patient relationship with the patient.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *Nothing in Sections 1 to 30 of this Act shall be construed as applying to industrial hemp or industrial hemp products as defined in Section 40 of this Act.*
- (2) *Notwithstanding any provision of law to the contrary, and except as provided in subsections (3) and (4) of this section and Section 6 of this Act:*
- (a) *The use of medicinal cannabis by a cardholder shall be considered lawful if done in accordance with Sections 1 to 30 of this Act and any administrative regulations promulgated thereunder;*
- (b) *The acquisition, blending, cultivation, delivery, distribution, manufacturing, manipulation, packaging for sale, preparation, possession, sale, testing, transportation, or transfer of medicinal cannabis or medicinal cannabis accessories by a cannabis business or cannabis business agent shall be considered lawful if done in accordance with Sections 1 to 30 of this Act and any administrative regulations promulgated thereunder;*
- (c) *A registered qualified patient or visiting qualified patient shall not be considered to be under the influence of medicinal cannabis solely because of the presence of tetrahydrocannabinol metabolites, including but not limited to the cannabinoid carboxy THC, which is also known as THC-COOH;*
- (d) *A medicinal cannabis practitioner shall not be subject, under the laws of the Commonwealth, to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a state licensing board or by any other occupational or professional licensing board, solely for providing written certifications or for otherwise stating that, in the medicinal cannabis practitioner's professional opinion, a patient may receive medical, therapeutic, or palliative benefit from the use of medicinal cannabis, if done in accordance with Sections 1 to 30 of this Act;*
- (e) *An attorney shall not be subject, under the laws of the Commonwealth, to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by the Kentucky Court of Justice, Kentucky Bar Association, or by any other professional licensing board, solely for providing an individual or cannabis business with legal assistance related to activity that is no longer subject to criminal penalties under state law pursuant to Sections 1 to 30 of this Act; and*
- (f) *No person shall be subject, under the laws of the Commonwealth, to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by an occupational or professional licensing board, solely for providing assistance or services, including but not limited to accounting services, financial services, security services, or business consulting services, to any individual or cannabis business related to activity that is no longer subject to criminal penalties under state law pursuant to Sections 1 to 30 of this Act.*
- (3) *Nothing in subsection (2) of this section shall be construed or interpreted to:*
- (a) *Prohibit the arrest, prosecution, or imposition of any other penalty arising from but not limited to breach of contract, breach of fiduciary duty, negligence, or engaging in criminal activity that would constitute a felony or misdemeanor; or*
- (b) *Prevent a medicinal cannabis practitioner from being subject to administrative penalties imposed by his or her state licensing board for any violation of Sections 1 to 30 of this Act or any administrative regulation promulgated thereunder.*
- (4) *Notwithstanding subsection (2) of this section and any other provision of law to the contrary, a cardholder who is licensed under KRS Chapter 311 or KRS Chapter 314 may be subject to intervention or disciplinary action by his or her state licensing board if:*
- (a) *There is probable cause to believe that the cardholder has become impaired by, or otherwise abused, medicinal cannabis; or*
- (b) *The cardholder has a medically diagnosable disease that is characterized by chronic, habitual, or periodic use of medicinal cannabis resulting in interference with the cardholder's professional,*

social, or economic functions in the community or the loss of powers of self-control regarding the use of medicinal cannabis.

➔ SECTION 3. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *The Cabinet for Health and Family Services is hereby charged with the implementation, operation, oversight, and regulation of the medicinal cannabis program established in Sections 1 to 30 of this Act.*
- (2) *There is hereby established within the cabinet a Board of Physicians and Advisors which shall consist of the following members:*
 - (a) *Seven (7) physicians appointed by the Kentucky Board of Medical Licensure and confirmed by the Senate in accordance with KRS 11.160. In order to be eligible to be appointed to the board, a physician shall be authorized, pursuant to Section 9 of this Act to provide written certifications for the use of medicinal cannabis and shall be certified by the appropriate board in one (1) of the following specialties:*
 1. *Addiction medicine;*
 2. *Anesthesiology;*
 3. *Gastroenterology;*
 4. *Infectious disease;*
 5. *Neurology;*
 6. *Obstetrics and gynecology;*
 7. *Oncology;*
 8. *Ophthalmology;*
 9. *Optometry;*
 10. *Pain management;*
 11. *Pain medicine;*
 12. *Pediatrics;*
 13. *Physical medicine and rehabilitation; or*
 14. *Psychiatry; and*
 - (b) *Two (2) advanced practice registered nurses appointed by the Kentucky Board of Nursing and confirmed by the Senate. In order to be eligible to be appointed to the board, an advanced practice registered nurse shall be authorized, pursuant to Section 9 of this Act to provide written certifications for the use of medicinal cannabis.*
- (3) *Each member of the Board of Physicians and Advisors shall:*
 - (a) *Serve for a term of four (4) years and until his or her successor is appointed and confirmed by the Senate;*
 - (b) *Be eligible for reappointment; and*
 - (c) *Serve without compensation, but each member of the board not otherwise compensated for his or her time or expenses shall be entitled to reimbursement for his or her actual and necessary expenses in carrying out his or her duties with reimbursement for expenses being made in accordance with administrative regulations relating to travel expenses.*
- (4) *The Board of Physicians and Advisors shall not be subject to reorganization under KRS Chapter 12.*
- (5) *The Board of Physicians and Advisors shall:*
 - (a) *Review and recommend to the cabinet protocols for determining:*
 1. *The amount of medicinal cannabis or delta-9 tetrahydrocannabinol that constitutes a daily supply, an uninterrupted ten (10) day supply, and an uninterrupted thirty (30) day supply of medicinal cannabis for registered qualified patients and visiting qualified patients; and*

2. *The amount of raw plant material that medicinal cannabis products are considered to be equivalent to;*
- (b) *Review and recommend to the cabinet protocols, evolving continuous quality improvement metrics, and minimal performance standards for the biennial accreditation process of licensed cannabis businesses;*
- (c) *Review relevant peer-reviewed, scientific data related to the delta-9 tetrahydrocannabinol content limits established in subsection (2)(b) of Section 18 of this Act and make recommendations to the General Assembly regarding revisions to the limits as the board deems appropriate;*
- (d) *Review relevant peer-reviewed, scientific data related to the various methods of use and consumption of medicinal cannabis and make recommendations to the General Assembly to approve or restrict certain methods as the board deems appropriate;*
- (e) *Review relevant peer-reviewed, scientific data related to the use of medicinal cannabis for medical, therapeutic, or palliative purposes and make recommendations to the General Assembly to add or remove conditions from the list of qualifying medical conditions defined in Section 1 of this Act; and*
- (f) *Perform other duties related to the use of medicinal cannabis upon request by the secretary of the cabinet.*
- (6) *No later than December 1 of each year beginning in 2024, the cabinet, in consultation with the University of Kentucky College of Medicine and the Kentucky Center for Cannabis shall submit an annual report to the Legislative Research Commission. The report submitted by the cabinet shall, at a minimum, include:*
 - (a) *The number of applications and renewals received by the cabinet for registry identification cards for registered qualified patients, visiting qualified patients, and designated caregivers, individually and collectively;*
 - (b) *The number of applications and renewals for registry identification cards that were approved and denied by the cabinet;*
 - (c) *The number of registry identification cards revoked by the cabinet for misconduct and the nature of the misconduct;*
 - (d) *The number of medicinal cannabis practitioners authorized to provide written certifications;*
 - (e) *The nature of the medical conditions for which medicinal cannabis practitioners have provided written certifications;*
 - (f) *The number of applications and renewals received by the cabinet for cannabis business licenses, the number of cannabis business licenses issued for each business type and tier, and the number of cannabis business license applications and renewals that were denied by the cabinet;*
 - (g) *The number of cannabis business agents employed by each type of cannabis business;*
 - (h) *An assessment of:*
 1. *The ability of cardholders in all areas of the state to obtain timely affordable access to medicinal cannabis;*
 2. *The evolving continuous quality improvement metrics and minimal performance standards for the biennial accreditation process of licensed cannabis businesses;*
 3. *The effectiveness of the cultivators, processors, and producers licensed under this chapter, individually and collectively, in serving the needs of processors, dispensaries, and cardholders, the reasonableness of their fees, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve processors, dispensaries, and cardholders in the Commonwealth;*
 4. *The effectiveness of the dispensaries licensed under this chapter, individually and collectively, in serving the needs of cardholders, including the provision of educational and support services, the reasonableness of their fees, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve cardholders in the Commonwealth; and*

5. *The effectiveness of the licensed safety compliance facilities licensed under this chapter, individually and collectively, in serving the needs of other cannabis businesses, including the provision of testing and training services, the reasonableness of their fees, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve other cannabis businesses and cardholders in the Commonwealth;*
- (i) *The amount of medicinal cannabis sold per month in the Commonwealth;*
 - (j) *The total amount of revenue for each calendar year and aggregated by prior years generated from any cannabis business licensure and cardholder application and renewal fees established by the cabinet;*
 - (k) *The total cost of enforcement for the medicinal cannabis program at the time of the report, by city, county, and overall;*
 - (l) *The sufficiency of the regulatory and security safeguards contained in Sections 1 to 30 of this Act and adopted by the cabinet through administrative regulations to ensure that access to and use of medicinal cannabis cultivated and processed in this state is provided only to cardholders;*
 - (m) *Any recommended additions or revisions to Sections 1 to 30 of this Act or administrative regulations promulgated thereunder, including those relating to security, safe handling, labeling, and nomenclature;*
 - (n) *The results of any scientific research studies regarding the health effects of cannabis; and*
 - (o) *Any other data requested by the Legislative Research Commission relating to the medicinal cannabis program and Sections 1 to 30 of this Act.*
- (7) *The cabinet shall provide the University of Kentucky College of Medicine and the Kentucky Center for Cannabis established in KRS 164.983 with all information necessary to allow collaboration with the cabinet on the preparation of this report. The University of Kentucky College of Medicine and the Kentucky Center for Cannabis may also produce its own report regarding the medicinal cannabis program established in Sections 1 to 30 of this Act which, if produced, shall be submitted to the Legislative Research Commission upon completion.*
- (8) *The information contained in the report described in subsection (4) of this section shall be presented in a manner that complies with the federal Health Insurance Portability and Accountability Act, Pub. L. No. 104-191, and does not disclose any identifying information about cardholders or licensed cannabis businesses.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *A registered qualified patient, except as provided in subsection (2) of this section and Section 6 of this Act, shall not be subject, under the laws of the Commonwealth, to arrest, prosecution, or denial of any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing board, for the use of medicinal cannabis, if the registered qualified patient does not possess more than:*
- (a) *An amount of medicinal cannabis determined by the cabinet to constitute an uninterrupted thirty (30) day supply at his or her residence;*
 - (b) *An amount of medicinal cannabis in excess of a thirty (30) day supply at his or her residence, in accordance with administrative regulations promulgated pursuant to subsection (1)(c)6. of Section 27 of this Act; or*
 - (c) *An amount of medicinal cannabis determined by the cabinet to constitute an uninterrupted ten (10) day supply on his or her person, except that an amount greater than a ten (10) day supply may be transported by a registered qualified patient from a dispensary to his or her residence if the medicinal cannabis is contained in a sealed package that requires at least a two (2) step process for initial opening.*
- (2) *A registered qualified patient who is under eighteen (18) years of age shall not be permitted to possess, purchase, or acquire medicinal cannabis and shall only engage in the use of medicinal cannabis with the assistance of a designated caregiver who is the registered qualified patient's parent or legal guardian responsible for providing consent for medical treatment.*

- (3) *A visiting qualified patient shall not be subject, under the laws of the Commonwealth, to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board, for the use of medicinal cannabis, if the visiting qualified patient does not possess more than an amount of medicinal cannabis determined by the cabinet to constitute an uninterrupted ten (10) day supply on his or her person.*
- (4) *A designated caregiver shall not be subject, under the laws of the Commonwealth, to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board, for assisting a registered qualified patient to whom the designated caregiver is connected through the cabinet's registration process with the use of medicinal cannabis if the designated caregiver does not possess more than:*
- (a) *An amount of medicinal cannabis determined by the cabinet to constitute an uninterrupted thirty (30) day supply at his or her residence for each registered qualified patient to whom the caregiver is connected through the cabinet's registration process;*
 - (b) *An amount of medicinal cannabis in excess of a thirty (30) day supply at his or her residence for each registered qualified patient to whom the caregiver is connected through the cabinet's registration process, in accordance with administrative regulations promulgated pursuant to subsection (1)(c)6. of Section 27 of this Act; or*
 - (c) *An amount of medicinal cannabis determined by the cabinet to constitute an uninterrupted ten (10) day supply on his or her person for each registered qualified patient to whom the caregiver is connected through the cabinet's registration process, except that an amount greater than a ten (10) day supply may be transported by a designated caregiver from a dispensary to his or her residence if the medicinal cannabis is contained in a sealed package that requires at least a two (2) step process for initial opening.*
- (5) (a) *All medicinal cannabis possessed by a cardholder outside of his or her residence shall be kept in the original container in which the cardholder received the medicinal cannabis from a dispensary.*
- (b) *When a cardholder possesses medicinal cannabis outside of his or her residence, the cardholder shall also be in possession of a valid registry identification card issued by the cabinet or, for visiting qualified patients, a valid out-of-state registry identification card and documentation of having been diagnosed with a qualifying medical condition.*
- (6) *Notwithstanding subsections (1), (3), and (4) of this section and except as provided in administrative regulations promulgated pursuant to subsection (1)(c)6. of Section 27 of this Act:*
- (a) *A registered qualified patient shall not be permitted to purchase more medicinal cannabis than the amount determined by the cabinet to constitute an uninterrupted thirty (30) day supply of medicinal cannabis during a given twenty-five (25) day period;*
 - (b) *A designated caregiver shall not be permitted to purchase more medicinal cannabis than the amount determined by the cabinet to constitute an uninterrupted thirty (30) day supply of medicinal cannabis for each registered qualified patient to whom the caregiver is connected through the cabinet's registration process during a given twenty-five (25) day period; and*
 - (c) *A visiting qualified patient shall not be permitted to purchase more medicinal cannabis than the amount determined by the cabinet to constitute an uninterrupted ten (10) day supply of medicinal cannabis during a given eight (8) day period.*
- (7) *A cardholder shall not be subject, under the laws of the Commonwealth, to arrest, prosecution, or denial of any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing board, for:*
- (a) *Possession of cannabis that is incidental to the use of medicinal cannabis;*
 - (b) *Possession of medicinal cannabis accessories; or*
 - (c) *Transferring medicinal cannabis to a safety facility for testing.*
- (8) *No person shall be subject, under the laws of the Commonwealth, to arrest, prosecution, or denial of any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing board, for:*

- (a) *Selling medicinal cannabis accessories to a cardholder who is over eighteen (18) years of age upon presentation of a valid registry identification card issued by the cabinet or, for visiting qualified patients, a valid out-of-state registry identification card and documentation of having been diagnosed with a qualifying medical condition;*
 - (b) *Being in the presence or vicinity of the use of medicinal cannabis as allowed under Sections 1 to 30 of this Act; or*
 - (c) *Assisting a registered qualified patient or visiting qualified patient with using or administering medicinal cannabis. For purposes of illustration and not limitation, this includes preparing raw plant material or brewing tea for a registered qualified patient or visiting qualified patient. It does not include providing medicinal cannabis to a patient that the patient did not already possess.*
- (9) *Notwithstanding any other provision of law to the contrary, a registered qualified patient who is injured or defrauded, including by theft or deprivation of use and benefit of any money, personal property including medicinal cannabis, or articles of value of any kind, by his or her designated caregiver shall have a civil cause of action in Circuit Court to recover the actual damages sustained, together with the cost of the lawsuit, including a reasonable fee for the individual's attorney of record.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) (a) *Any medicinal cannabis, medicinal cannabis accessories, lawful property, or interest in lawful property that is possessed, owned, or used in connection with the use of medicinal cannabis or acts incidental to that use shall not be subject to seizure or forfeiture under KRS 218A.405 to 218A.460.*
- (b) *Sections 1 to 30 of this Act shall not prevent the seizure or forfeiture of marijuana exceeding the amounts allowed under Section 4 of this Act or administrative regulations promulgated pursuant to subsection (1)(c)6. of Section 27 of this Act, nor shall it prevent seizure or forfeiture if the basis for that action is unrelated to the use of medicinal cannabis in accordance with Sections 1 to 30 of this Act and any administrative regulation promulgated thereunder.*
- (2) *Possession of, or application for, a registry identification card, an out-of-state registry identification card, or cannabis business license shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person, property, or home of the person possessing or applying for the registry identification card, out-of-state registry identification card, or cannabis business license. The possession of, or application for, a registry identification card, out-of-state registry identification card, or cannabis business license shall not preclude the existence of probable cause if probable cause exists on other grounds.*
- (3) (a) *There shall be a rebuttable presumption that a cardholder is engaged in the lawful use of medicinal cannabis, or in the case of a designated caregiver, assisting with the lawful use of medicinal cannabis, if the cardholder:*
 - 1. *Possesses a valid registry identification card or, in the case of a visiting qualified patient, an out-of-state registry identification card and documentation of having been diagnosed with a qualifying medical condition; and*
 - 2. *Possesses an amount of medicinal cannabis that does not exceed the amount allowed under Section 4 of this Act or administrative regulations promulgated pursuant to subsection (1)(c)6. of Section 27 of this Act.*
- (b) *This presumption may be rebutted by a preponderance of evidence that conduct was unrelated to the use of medicinal cannabis or was otherwise in violation of Sections 1 to 30 of this Act.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *Sections 1 to 30 of this Act do not authorize any person to engage in, and shall not prevent the imposition of any civil, criminal, or other penalties, including but not limited to criminal prosecution or disciplinary action by the cabinet or an occupational or professional licensing board, for engaging in the following conduct:*
 - (a) *Operating, navigating, or being in actual physical control of any aircraft, vehicle, vessel, or any other device known, or hereafter invented, that is powered by machinery and that is or may be used to transport persons or property while under the influence of medicinal cannabis;*

- (b) *Consuming medicinal cannabis while operating, navigating, or being in actual physical control of an aircraft, vehicle, vessel, or any other device known, or hereafter invented, that is powered by machinery and that is or may be used to transport persons or property;*
 - (c) *Possessing medicinal cannabis that is within the operator's arm's reach or requires less than a two (2) step process to access while operating, navigating, or being in actual physical control of an aircraft, vehicle, vessel, or any other device known, or hereafter invented, that is powered by machinery and that is or may be used to transport persons or property;*
 - (d) *Undertaking any task under the influence of medicinal cannabis, when doing so would constitute negligence or professional malpractice;*
 - (e) *Possessing medicinal cannabis, or otherwise engaging in the use of medicinal cannabis:*
 - 1. *On the grounds of any preschool or primary or secondary school, except as permitted in accordance with policies enacted pursuant to subsection (4) of Section 8 of this Act;*
 - 2. *In any correctional facility; or*
 - 3. *On any property of the federal government;*
 - (f) *Using marijuana, if that person is not a registered qualified patient or visiting qualified patient;*
 - (g) *Using or consuming marijuana by smoking; or*
 - (h) *Cultivating marijuana unless that person is licensed by the cabinet as a cannabis cultivator or cannabis producer pursuant to Sections 15, 16, and 17 of this Act or is a cultivator or producer agent.*
- (2) *The penalty for a violation of subsection (1)(a) or (b) of this section shall be the same as those established for operating a motor vehicle under the influence of alcohol or any other substance in KRS 189A.010.*
- (3) (a) *An individual who violates subsection (1)(g) of this section shall not be considered to be in possession of medicinal cannabis or engaged in the use of medicinal cannabis and shall not benefit from the legal protections afforded by Sections 1 to 30 of this Act.*
- (b) *The odor or smell of uncombusted raw plant material shall not constitute evidence of use or consumption of cannabis by smoking.*
- (c) *If an individual uses or consumes marijuana by smoking while on any form of public transportation, in any public place as defined in KRS 525.010, or in any place of public accommodation, resort, or amusement as defined in KRS 344.130:*
- 1. *The cabinet may revoke the individual's registry identification card; and*
 - 2. *The individual may be subject to prosecution under Sections 35 and 36 of this Act.*
- (4) *Nothing in Sections 1 to 30 of this Act supersedes statutory laws relating to driving while under the influence of intoxicants. Sections 1 to 30 of this Act shall not prevent the enforcement of current laws pertaining to driving while intoxicated, including KRS 183.061, 189.520, 189A.010, and 235.240.*
- (5) *As used in this section:*
- (a) *"Aircraft" has the same meaning as in KRS 183.011;*
 - (b) *"Vehicle" has the same meaning as in KRS 189.010; and*
 - (c) *"Vessel" has the same meaning as in KRS 235.010.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *Nothing in Sections 1 to 30 of this Act shall:*
- (a) *Require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, distribution, sale, or growing of medicinal cannabis in the workplace;*
 - (b) *Prohibit an employer from implementing policies promoting workplace health and safety by:*
 - 1. *Restricting the use of medicinal cannabis by employees; or*
 - 2. *Restricting or prohibiting the use of equipment, machinery, or power tools by an employee who is a registered qualified patient, if the employer believes that the use of such equipment,*

machinery, or power tools by an employee who is a registered qualified patient poses an unreasonable safety risk;

- (c) *Prohibit an employer from including in any contract provisions that prohibit the use of medicinal cannabis by employees;*
 - (d) *Permit a cause of action against an employer for wrongful discharge or discrimination;*
 - (e) *Except as provided in Section 8 of this Act, prohibit a person, employer, corporation, or any other entity who occupies, owns, or controls a property from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of medicinal cannabis on or in that property;*
 - (f) *Prohibit an employer from establishing and enforcing a drug testing policy, drug-free workplace, or zero-tolerance drug policy; or*
 - (g) *Prohibit an employer from exercising his or her ability to determine impairment of an employee who is a cardholder. Good faith determinations of impairment permitted under this paragraph shall include behavioral assessments of impairment and a secondary step of testing an employee who is a cardholder for the presence of cannabis by an established method. If an employer determines, pursuant to subsection (2)(c) of Section 2 of this Act, that an employee who is a cardholder is impaired by the use of cannabis from the behavioral assessment and testing, the burden of proving non-impairment shall shift to the employee to refute the findings of the employer.*
- (2) *An employee who is discharged from employment for consuming medicinal cannabis in the workplace, working while under the influence of medicinal cannabis, or testing positive for a controlled substance shall not be eligible to receive benefits under KRS Chapter 341, if such actions are in violation of an employment contract or established personnel policy.*
 - (3) *An employer shall not be penalized or denied any benefit under state law for employing a cardholder.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *A registered qualified patient or visiting qualified patient who uses medicinal cannabis shall be afforded all the same rights under state and local law, including those guaranteed under KRS Chapter 344, as the individual would have been afforded if he or she were solely prescribed pharmaceutical medications as they pertain to drug testing required by any state or local law.*
- (2) *A cardholder otherwise entitled to custody of, or visitation time or parenting time with, a minor child shall not be denied that right, and there shall be no presumption of abuse, neglect, or dependency for conduct permitted under Sections 1 to 30 of this Act unless the person's actions in relation to medicinal cannabis created an unreasonable danger to the safety of the minor child as established by clear and convincing evidence.*
- (3)
 - (a) *For the purposes of medical care, including organ transplants, a patient's authorized use of medicinal cannabis is the equivalent of the authorized use of any other medication used at the direction of a practitioner.*
 - (b) *A health facility as defined in KRS 216B.015 may develop policies to allow a patient who is a registered qualified patient or visiting qualified patient to use medicinal cannabis on the premises of the health facility.*
- (4)
 - (a) *A school shall not refuse to enroll, or otherwise penalize, a person solely for his or her status as a cardholder, unless failing to do so would violate federal law or regulations and cause the school to lose a monetary or licensing-related benefit under federal law or regulations.*
 - (b) *A school shall not be penalized or denied any benefit under state law for enrolling a cardholder.*
 - (c) *Each local board of education and each board of directors of a public charter school shall, no later than July 1, 2024, establish policies to permit a pupil who is a registered qualified patient to consume medicinal cannabis on school property as deemed necessary by the pupil's parent or legal guardian. Policies enacted pursuant to this paragraph shall require medicinal cannabis be administered by a school nurse or under the supervision of appropriate school staff.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (11) of this section, a physician or an advanced practice registered nurse who is authorized to prescribe controlled substances under KRS 314.042 seeking to provide written certifications for the use of medicinal cannabis shall apply to the same state licensing board that issued his or her professional practice license, on a form prescribed by the state licensing board, for authorization to provide written certifications for the use of medicinal cannabis.*
- (2)
 - (a) *A state licensing board shall approve an application for authorization to provide written certifications for the use of medicinal cannabis if the application is complete and meets the requirements established in administrative regulations promulgated by the state licensing board.*
 - (b) *A state licensing board shall not authorize an application for authorization to provide written certifications for the use of medicinal cannabis if the applicant has an ownership or investment interest in or compensation agreement with a cannabis business licensed under this chapter. A state licensing board may consult with the cabinet to determine if an applicant has an ownership or investment interest in or compensation agreement with a cannabis business.*
- (3) *Authorization to provide written certifications for the use of medicinal cannabis granted under this section shall expire and may be renewed in accordance with administrative regulations promulgated by a state licensing board.*
- (4) *A medicinal cannabis practitioner authorized by a state licensing board to provide written certifications for the use of medicinal cannabis may only provide a patient with a written certification after the medicinal cannabis practitioner has:*
 - (a) *Established a bona fide practitioner-patient relationship with the patient;*
 - (b) *Diagnosed the patient, or confirmed a diagnosis provided by another health care provider, with a medical condition for which the medicinal cannabis practitioner believes that the patient may receive therapeutic or palliative benefit from the use of medicinal cannabis;*
 - (c) *Reviewed a report of information from the electronic monitoring system established pursuant to Section 38 of this Act related to the patient for a period of time that covers at least the twelve (12) months immediately preceding the date of the report;*
 - (d) *Consulted with the patient, or the patient's custodial parent or legal guardian responsible for providing consent to treatment if the patient is a minor child, with respect to the possible risks and side effects associated with medicinal cannabis, including possible interactions between medicinal cannabis and any other drug or medication that the patient is taking at that time; and*
 - (e) *Obtained the consent of the patient's custodial parent or legal guardian responsible for providing consent to treatment, if the patient is a minor child.*
- (5) *A bona fide practitioner-patient relationship may be established following a referral from the patient's primary care provider and may be maintained via telehealth. However, a bona fide practitioner-patient relationship shall not be established via telehealth.*
- (6)
 - (a) *When issuing a written certification for the use of medicinal cannabis to a patient, the medicinal cannabis practitioner shall use a form prescribed by the cabinet.*
 - (b) *An initial written certification for the use of medicinal cannabis shall be provided during the course of an in-person examination of the patient by the medicinal cannabis practitioner. Subsequent written certifications, including for the purpose of renewing a registry identification card, may be provided electronically or during the course of a telehealth consultation.*
 - (c) *For the purpose of applying for a registry identification card, a written certification provided under this section shall be valid for a period of not more than sixty (60) days. The medicinal cannabis practitioner may renew a written certification for not more than three (3) additional periods of not more than sixty (60) days each. Thereafter, the medicinal cannabis practitioner may issue another certification to the patient only after an in-person examination or an examination conducted via telehealth of the patient by the medicinal cannabis practitioner.*
 - (d) *Within twenty-four (24) hours of providing a patient with a written certification for the use of medicinal cannabis, a medicinal cannabis practitioner shall record the issuance of the written certification in the electronic monitoring system established pursuant to Section 38 of this Act.*
- (7) *A medicinal cannabis practitioner shall not:*

- (a) *Dispense medicinal cannabis; or*
 - (b) *Provide a written certification for the use of medicinal cannabis to a family member or for himself or herself.*
- (8) *Nothing in Sections 1 to 30 of this Act shall prevent a medicinal cannabis practitioner from being sanctioned for:*
- (a) *Issuing a written certification without first obtaining authorization to provide written certifications from a state licensing board;*
 - (b) *Issuing a written certification to a patient with whom the medicinal cannabis practitioner does not have a bona fide practitioner-patient relationship;*
 - (c) *Failing to properly evaluate a patient's medical history and current medical condition prior to issuing a written certification;*
 - (d) *Otherwise failing to use good faith in his or her treatment of the patient; or*
 - (e) *Any other violation of this section.*
- (9) *A state licensing board may suspend or revoke a medicinal cannabis practitioner's authorization to provide written certification for the use of medicinal cannabis and practice license for multiple violations or a serious violation of this section or administrative regulations promulgated thereunder.*
- (10) *The state licensing boards shall:*
- (a) *No later than July 1, 2024, promulgate administrative regulations in accordance with KRS Chapter 13A to establish:*
 - 1. *Procedures for applying for authorization to provide written certifications;*
 - 2. *The conditions that must be met to be eligible for authorization to provide written certifications;*
 - 3. *The process and procedures for renewing authorization to provide written certifications;*
 - 4. *Continuing education requirements for medicinal cannabis practitioners who are authorized to provide written certifications;*
 - 5. *The reasons for which authorization to provide written certifications for the use of medicinal cannabis may be suspended or revoked; and*
 - 6. *The minimal standards of care when providing written certifications including record maintenance and follow-up care requirements;*
 - (b) *On a regular basis, provide the cabinet with the names of all medicinal cannabis practitioners; and*
 - (c) *Immediately provide the cabinet with the name of any medicinal cannabis practitioner whose authorization to provide written certifications is suspended or revoked.*
- (11) *This section does not apply to a practitioner who recommends treatment with cannabis or a drug derived from cannabis under any of the following that are approved by an investigational review board or equivalent entity, the United States Food and Drug Administration, or the National Institutes for Health or any of its cooperative groups or centers under the United States Department of Health and Human Services:*
- (a) *A research protocol;*
 - (b) *A clinical trial;*
 - (c) *An investigational new drug application; or*
 - (d) *An expanded access submission.*
- (12) *As used in this section, "telehealth" has the same meaning as in KRS 211.332.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (5) of this section, no person shall possess, purchase, acquire, or otherwise engage or assist in the use of medicinal cannabis in Kentucky without first applying for and receiving a registry identification card issued by the cabinet.*

- (2) *A person shall be eligible to apply for a registry identification card as a registered qualified patient if he or she is a resident of Kentucky, has obtained a written certification from a medicinal practitioner with whom he or she has a bona fide practitioner-patient relationship, and has not been convicted of a disqualifying felony offense.*
- (3)
 - (a) *Except as provided in paragraph (b) of this subsection, a person shall be eligible to apply for a registry identification card as a designated caregiver if he or she is a resident of Kentucky, is at least twenty-one (21) years of age, has not been convicted of a disqualifying felony offense, and has agreed to assist no more than three (3) registered qualified patients with the use of medicinal cannabis.*
 - (b) *Any person who has been appointed as a guardian, limited guardian, conservator, or limited conservator under KRS Chapter 387 shall be eligible to be designated as a designated caregiver by the individual for whom they have been appointed as a guardian, limited guardian, conservator, or limited conservator.*
- (4) *A person shall be eligible to apply for a registry identification card as a visiting qualified patient if he or she is not a resident of Kentucky or has been a resident of Kentucky for less than thirty (30) days, is at least twenty-one (21) years of age, has not been convicted of a disqualifying felony offense, possesses a valid out-of-state registry identification card, and possesses documentation of having been diagnosed with a qualifying medical condition.*
- (5) *A person with a valid out-of-state registry identification card and documentation of having been diagnosed with a qualifying medical condition may use his or her out-of-state registry identification card for all purposes established in Sections 1 to 30 of this Act and shall not be required to apply for or receive a visiting qualified patient registry identification card from the cabinet.*
- (6) *To apply for or renew a registry identification card, a qualified patient shall submit the following, in accordance with administrative regulations promulgated by the cabinet:*
 - (a) *The name, address, and date of birth of the qualified patient, except that if the applicant is homeless an address where the applicant may be reached shall be provided to the cabinet;*
 - (b) *A written certification issued by a medicinal cannabis practitioner within ninety (90) days immediately preceding the date of an application;*
 - (c) *The name, address, and telephone number of the qualified patient's medicinal cannabis practitioner;*
 - (d) *The name, address, and date of birth of not more than two (2) individuals chosen by the qualified patient to be designated as a caregiver, if the qualified patient chooses to designate a caregiver, except that if an individual has been appointed as a guardian, limited guardian, conservator, or limited conservator under KRS Chapter 387, the qualified patient shall choose that individual as a designated caregiver;*
 - (e) *A statement, signed by the qualified patient, pledging not to divert medicinal cannabis to anyone who is not permitted to possess medicinal cannabis pursuant to Sections 1 to 30 of this Act. The statement shall contain a listing of potential penalties, including criminal prosecution, for diverting medicinal cannabis;*
 - (f) *A statement, signed by the individuals chosen by the qualified patient to be designated as a caregiver, if any, agreeing to be designated as the patient's designated caregiver and pledging not to divert medicinal cannabis to anyone other than the registered qualified patient to whom the caregiver is connected through the cabinet's registration process. The statement shall contain a listing of potential penalties, including criminal prosecution, for diverting medicinal cannabis; and*
 - (g) *The application or renewal fee for a registry identification card for a qualified patient and the application or renewal fee for a registry identification card for any designated caregiver chosen by the qualified patient.*
- (7) *To apply for or renew a registry identification card, a qualified patient who is under eighteen (18) years of age shall, in addition to the information required under subsection (6) of this section, submit:*
 - (a) *Documentation of diagnosis of a qualifying medical condition by a practitioner other than the medicinal cannabis practitioner who provided the written certification for the use of medicinal cannabis; and*

- (b) *A statement signed by the custodial parent or legal guardian with responsibility for health care decisions for the qualified patient attesting to the fact that the custodial parent or legal guardian agrees to:*
1. *Allow the qualified patient to use medicinal cannabis;*
 2. *Serve as the qualified patient's designated caregiver; and*
 3. *Control the acquisition, dosage, and frequency of use of medicinal cannabis by the qualified patient.*
- (8) *To apply for or renew a registry identification card, a visiting qualified patient shall submit the following, in accordance with administrative regulations promulgated by the cabinet:*
- (a) *The name, address, and date of birth of the visiting qualified patient, except that if the applicant is homeless an address where the applicant may be reached shall be provided to the cabinet;*
 - (b) *A copy of his or her valid out-of-state registry identification card;*
 - (c) *Proof that he or she has been diagnosed with a qualifying medical condition;*
 - (d) *The application or renewal fee for a registry identification card for a visiting qualified patient; and*
 - (e) *A statement, signed by the visiting qualified patient, pledging not to divert medicinal cannabis to anyone who is not permitted to possess medicinal cannabis pursuant to Sections 1 to 30 of this Act. The statement shall contain a listing of potential penalties, including criminal prosecution, for diverting medicinal cannabis.*
- (9) *The application for qualified patients' registry identification cards shall ask whether the patient would like the cabinet to notify him or her of any clinical studies needing human subjects for research on the use of medicinal cannabis. The cabinet shall notify interested patients if it is aware of studies that will be conducted in the United States.*
- (10) *A registered qualified patient applying to renew a registry identification card issued by the cabinet shall be required to submit to the cabinet a written certification issued by a medicinal cannabis practitioner within ninety (90) days immediately preceding the date of a renewal application.*

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet shall establish, implement, and operate a registry identification card program, including registry identification card application and renewal fees, for registered qualified patients, visiting qualified patients, and designated caregivers. Registry identification card application and renewal fees collected by the cabinet pursuant to this section shall be retained by the cabinet for administrative purposes.*
- (2) *Registry identification cards shall contain the following:*
- (a) *The name of the cardholder;*
 - (b) *A designation of whether the cardholder is a registered qualified patient, visiting qualified patient, or designated caregiver;*
 - (c) *The date of issuance and expiration date of the registry identification card;*
 - (d) *A random alphanumeric identification number of at least ten (10) characters, containing at least four (4) numbers and at least four (4) letters, that is unique to the cardholder;*
 - (e) *A bar code or other marking that can be scanned electronically;*
 - (f) *A photograph of the cardholder, if the cabinet's administrative regulations require one;*
 - (g) *The telephone number and website address for the electronic monitoring system established pursuant to Section 38 of this Act;*
 - (h) *If the cardholder is a registered qualified patient who has designated one (1) or more designated caregivers, the random alphanumeric identification number of the patient's designated caregivers;*
 - (i) *If the cardholder is a designated caregiver, the random alphanumeric identification number of the registered qualified patient the designated caregiver is receiving the registry identification card to assist; and*

- (j) *If the cardholder is under eighteen (18) years of age, a clear and obvious designation or identifier indicating that the cardholder is under eighteen (18) years of age.*
- (3) (a) *Except as provided in paragraph (b) of this subsection, the expiration date for registry identification cards shall be one (1) year after the date of issuance.*
- (b) *If a medicinal cannabis practitioner states in the written certification that the qualified patient would benefit from the use of medicinal cannabis until a specified earlier date, then the registry identification card shall expire on that date.*
- (4) *The cabinet may, at its discretion, electronically store in the card all of the information listed in subsection (2) of this section, along with the address and date of birth of the cardholder, to allow it to be read electronically by law enforcement agents and licensed cannabis businesses.*
- (5) (a) *The cabinet shall operate a provisional registration receipt system for registered qualified patients, designated caregivers, and visiting qualified patients that shall be valid for forty-five (45) days, or until a permanent card can be issued, as if it is a registry identification card issued by the cabinet. This program shall be implemented and operational simultaneously with the cabinet's implementation of the registry identification card program established in this section. A provisional registration receipt shall contain the following:*
 - 1. *A temporary licensure number;*
 - 2. *A barcode or other marking that can be scanned electronically;*
 - 3. *The name of the applicant;*
 - 4. *A designation of whether the cardholder is a registered qualified patient, visiting qualified patient, or designated caregiver;*
 - 5. *If the cardholder is under eighteen (18) years of age, a clear and obvious designation or identifier indicating that the cardholder is under eighteen (18) years of age;*
 - 6. *The effective date of the receipt;*
 - 7. *The expiration date of the receipt;*
 - 8. *An indication that the cardholder fee has been paid;*
 - 9. *An indication that the application has been submitted and is apparently complete; and*
 - 10. *The name of the certifying medicinal cannabis practitioner.*
- (b) *The registration receipt system shall be designed so that this provisional registration receipt shall be produced by the application website upon completion of an application that includes a written certification for the use of medicinal cannabis and payment of the cardholder fee. To reduce application errors and processing time, a medicinal cannabis practitioner or a dispensary may offer a service that allows an applicant to use a computer and printer on the premises of the medicinal cannabis practitioner's office or dispensary to complete an application and receive a provisional registration receipt pursuant to this subsection.*
- (c) *Notwithstanding any other provision of Sections 1 to 30 of this Act, a valid provisional registration receipt issued pursuant to this subsection shall convey to the individual whose name appears on the provisional registration receipt all of the same rights and privileges as a registry identification card issued by the cabinet and shall be accepted by a cannabis business in place of a registry identification card.*

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsections (2) to (5) of this section, the cabinet shall:*
 - (a) *Acknowledge receipt of an application within fifteen (15) days of receipt, and approve or deny an application or renewal within thirty (30) days of receiving a completed application or renewal application; and*
 - (b) *Issue registry identification cards to a qualified patient and any individual designated by the qualified patient as a designated caregiver or a visiting qualified patient within five (5) days of approving the application or renewal. An individual designated as a caregiver shall be issued a*

designated caregiver registry identification card for each registered qualified patient to whom he or she is connected through the cabinet's registration process.

- (2) *The cabinet shall not issue a registry identification card to a qualified patient who is younger than eighteen (18) years of age unless:*
 - (a) *The custodial parent or legal guardian with responsibility for health care decisions for the qualified patient consents in writing to:*
 1. *Allow the qualified patient's use of medicinal cannabis;*
 2. *Serve as the qualified patient's designated caregiver; and*
 3. *Control the acquisition of the medicinal cannabis, the dosage, and the frequency of the use by the qualified patient; and*
 - (b) *The designated caregiver application for the custodial parent or legal guardian with responsibility for health care decisions for the qualified patient is approved.*
- (3) *The cabinet may deny an application or renewal for a qualified patient's or visiting qualified patient's registry identification card for any reason that the cabinet, in the exercise of sound discretion, deems sufficient, including but not limited to if the applicant:*
 - (a) *Did not provide the information or materials required by Section 10 of this Act;*
 - (b) *Previously had a registry identification card revoked;*
 - (c) *Provided false or falsified information; or*
 - (d) *Does not meet the eligibility requirements established in Section 10 of this Act.*
- (4) (a) *Except as provided in paragraph (b) of this subsection, the cabinet may deny an application or renewal for a designated caregiver's registration card for any reason that the cabinet, in the exercise of sound discretion, deems sufficient, including but not limited to if the applicant:*
 1. *Is already registered as a designated caregiver for three (3) registered qualified patients;*
 2. *Does not meet the eligibility requirements established in Section 10 of this Act;*
 3. *Did not provide the information or materials required by Section 10 of this Act;*
 4. *Previously had a registry identification card revoked;*
 5. *Provided false or falsified information;*
 6. *Was previously convicted of a disqualifying felony offense; or*
 7. *Has applied as a designated caregiver for a qualified patient whose application or renewal for a registry identification card was denied.*

(b) *Notwithstanding paragraph (a) of this subsection, the cabinet shall approve an application or renewal for a designated caregiver's registration card if the applicant has applied as a designated caregiver for a qualified patient for who the applicant has been appointed under KRS Chapter 387 as a guardian, limited guardian, conservator, or limited conservator.*
- (5) *The cabinet may deny an application or renewal for a visiting qualified patient's registration card for any reason that the cabinet, in the exercise of sound discretion, deems sufficient, including but not limited to if the applicant:*
 - (a) *Did not provide the information or materials required by Section 10 of this Act;*
 - (b) *Previously had a registry identification card revoked;*
 - (c) *Provided false or falsified information; or*
 - (d) *Does not meet the eligibility requirements established in Section 10 of this Act.*
- (6) *The cabinet may conduct a criminal background check of any applicant if the criminal background check is conducted solely to determine whether the applicant was previously convicted of a disqualifying felony offense.*

- (7) *The cabinet shall notify the registered qualified patient who has designated someone to serve as his or her designated caregiver if the individual designated as a caregiver is denied a registry identification card.*
- (8) *The cabinet shall notify the applicant in writing of the denial and reasons by registered or certified mail at the address given in the application or supplement. The applicant may, within thirty (30) days after the date of the mailing of the cabinet's notice, file a written request for an administrative hearing on the application. The hearing shall be conducted on the application in compliance with the requirements of KRS Chapter 13B.*
- (9) *Final orders of the cabinet after administrative hearings shall be subject to judicial review. Jurisdiction and venue for judicial review are vested in the Circuit Court of the county in which the appealing party resides.*

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *Cardholders shall be required to make the following notifications to the cabinet:*
- (a) *A cardholder shall notify the cabinet of any change in his or her name or address;*
- (b) *A registered qualified patient shall notify the cabinet within thirty (30) days if he or she ceases to suffer from the medical condition for which a medicinal cannabis practitioner provided a written certification;*
- (c) *A registered qualified patient shall notify the cabinet if he or she wishes to terminate a designated caregiver relationship with an individual who has been designated as his or her caregiver;*
- (d) *A designated caregiver shall notify the cabinet within thirty (30) days if he or she becomes aware that a registered qualified patient to whom the caregiver is connected through the cabinet's registration process has died or has ceased to suffer from the medical condition for which a medicinal cannabis practitioner provided a written certification; and*
- (e) *If a cardholder loses his or her registry identification card, he or she shall notify the cabinet within ten (10) days of becoming aware the card has been lost.*
- (2) *When a cardholder notifies the cabinet of items listed in paragraph (b) or (d) of subsection (1) of this section, the cardholder shall, within ten (10) days of notification, return any unused medicinal cannabis products to a licensed dispensary for destruction.*
- (3) *When a cardholder notifies the cabinet of items listed in paragraph (a), (c), or (e) of subsection (1) of this section, but remains eligible under Sections 1 to 30 of this Act, the cabinet shall issue the cardholder a new registry identification card with a new random ten (10) character alphanumeric identification number. If the cabinet issues a new registry identification card to a registered qualified patient, the cabinet shall also issue a new registry identification card with a new ten (10) character alphanumeric number to the registered qualified patient's designated caregiver. New registry identification cards issued under this subsection shall be issued by the cabinet within ten (10) days of receiving the updated information.*
- (4) *If a registered qualified patient ceases to be a registered qualified patient or changes his or her designated caregiver, the cabinet shall promptly notify the designated caregiver in writing. The designated caregiver's protections under Sections 1 to 30 of this Act as to that registered qualified patient shall expire fifteen (15) days after notification by the cabinet.*
- (5) *If a medicinal cannabis practitioner who provided a written certification notifies the cabinet in writing that the registered qualified patient has died, ceased to suffer from the medical condition for which a medicinal cannabis practitioner provided a written certification, or that the medicinal cannabis practitioner no longer believes the patient might receive therapeutic or palliative benefit from the use of medicinal cannabis, the cabinet shall promptly notify the registered qualified patient in writing. The registered qualified patient's protections under Sections 1 to 30 of this Act shall expire fifteen (15) days after notification by the cabinet, and the registered qualified patient shall have fifteen (15) days to dispose of or donate his or her medicinal cannabis to a dispensary.*

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *Any cardholder who sells, distributes, or dispenses medicinal cannabis to a person who is not permitted to possess or use medicinal cannabis under Sections 1 to 30 of this Act shall have his or her registry identification card revoked and shall be subject to other penalties, including but not limited to criminal prosecution under this chapter and KRS 138.870 to 138.889.*

- (2) *The cabinet may revoke the registry identification card of any cardholder who knowingly commits multiple violations or a serious violation of Sections 1 to 30 of this Act.*
- (3) *The cabinet shall provide notice of revocation, fine, or other penalty by mailing, via certified mail, the same in writing to the cardholder. The cardholder may, within thirty (30) days after the date of the mailing of the cabinet's notice, file a written request for an administrative hearing regarding the revocation, fine, or other penalty. The hearing shall be conducted in compliance with the requirements of KRS Chapter 13B.*
- (4) *Final orders of the cabinet after administrative hearings shall be subject to judicial review. Jurisdiction and venue for judicial review are vested in the Circuit Court of the county in which the appealing party resides.*

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *No person shall cultivate, process, produce, possess, test, transfer, transport, or sell medicinal cannabis or otherwise operate a cannabis business in this state without first obtaining a license under this section.*
- (2) *The cabinet shall create separate licenses, licensure application fees, initial licensure fees, and licensure renewal fees allowing persons to operate a cannabis business, pursuant to Sections 1 to 30 of this Act and any administrative regulations promulgated thereunder, as a:*
 - (a) *Tier I cannabis cultivator;*
 - (b) *Tier II cannabis cultivator;*
 - (c) *Tier III cannabis cultivator;*
 - (d) *Tier IV cannabis cultivator;*
 - (e) *Cannabis dispensary;*
 - (f) *Cannabis processor;*
 - (g) *Cannabis producer; or*
 - (h) *Cannabis safety compliance facility.*
- (3) *Licensure application fees, initial licensing fees, and licensure renewal fees collected by the cabinet pursuant to this section shall be retained by the cabinet for administrative purposes.*
- (4)
 - (a) *Except as provided in paragraph (b) of this subsection, a cannabis business shall be required to apply for and obtain from the cabinet a separate license for each location it intends to operate.*
 - (b) *A cannabis business licensed as a producer may operate cultivation and processing activities at separate locations, but shall not operate more than one (1) cultivation and one (1) processing facility per license.*
- (5)
 - (a) *A cannabis business license issued under this section and Sections 16 and 17 of this Act shall be valid for one (1) year from the date of issuance. The cabinet shall notify each licensee ninety (90) days prior to the date the license expires to allow the licensee to begin the renewal process established by the cabinet pursuant to Section 27 of this Act.*
 - (b) *The renewal of a cannabis business license shall be contingent upon successful achievement of minimal performance standards established by the cabinet as part of the biennial accreditation process established by the cabinet pursuant to Section 27 of this Act.*
- (6) *The cabinet shall approve a license holder's sale of a license issued pursuant to this section and Sections 16 and 17 of this Act if the purchaser and any new facilities meet the requirements of Sections 1 to 30 of this Act.*

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet shall create a uniform application form for the cannabis business licenses established in Section 15 of this Act.*
- (2) *When applying for a license, the applicant shall submit the following in accordance with the cabinet's administrative regulations:*
 - (a) *The proposed legal name of the cannabis business;*
 - (b) *The proposed physical address of the cannabis business and the global positioning system coordinates for any proposed cultivation activities;*

- (c) *The name, address, and date of birth of each principal officer and board member of the cannabis business;*
- (d) *Any instances in which a business or not-for-profit entity that any of the prospective board members managed or served on the board of was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding; and*
- (e) *Any additional information required by the cabinet.*

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *The cabinet shall:*
 - (a) *Acknowledge receipt of an application for a cannabis business license within fifteen (15) days of receipt; and*
 - (b) *Provide notification to the cannabis business license applicant as to whether the application for a cannabis business license has been approved or denied within forty-five (45) days of receiving a completed application.*
- (2) *The cabinet may deny an application for a cannabis business license for any reason that the cabinet, in the exercise of sound discretion, deems sufficient, including but not limited to:*
 - (a) *The applicant failed to submit the materials required by Section 16 of this Act, including if the applicant's plans do not satisfy the security, oversight, or recordkeeping administrative regulations promulgated by the cabinet;*
 - (b) *The applicant falsifies information on the licensure application;*
 - (c) *The applicant would not be in compliance with local cannabis business prohibitions enacted pursuant to Section 25 of this Act;*
 - (d) *One (1) or more of the prospective principal officers or board members:*
 - 1. *Has been convicted of a disqualifying felony offense, the provisions of KRS 335B.020 and 335B.030 notwithstanding;*
 - 2. *Has served as a principal officer or board member for a cannabis business that has had its license revoked;*
 - 3. *Is younger than twenty-one (21) years of age; or*
 - 4. *Is a medicinal cannabis practitioner; or*
 - (e)
 - 1. *For a safety compliance facility, one (1) or more of the prospective principal officers or board members is a principal officer or board member of a cultivator, processor, producer, or dispensary licensed to operate in Kentucky.*
 - 2. *For a cultivator, processor, producer, or dispensary, one (1) or more of the prospective principal officers or board members is a principal officer or board member of a safety compliance facility licensed to operate in Kentucky.*
- (3) *If a cannabis business license application is approved:*
 - (a) *The cannabis business shall, before it begins operations, submit its complete physical address and the global positioning system coordinates for any cultivation activities if a physical address or the global positioning system coordinates for any cultivation activities had not been finalized when it applied; and*
 - (b) *The cabinet shall:*
 - 1. *Issue a copy of the license that includes the business's identification number to the approved cannabis business;*
 - 2. *Provide a licensed dispensary with contact and access information for the electronic monitoring system established pursuant to Section 38 of this Act; and*
 - 3. *Provide notice of licensure approval and issuance to the city and county in which the cannabis business intends to operate.*

- (4) *If a cannabis business license application is denied, the cabinet shall notify the applicant in writing of a license denial and reasons by registered or certified mail at the address given in the application or supplement. The applicant may, within thirty (30) days after the mailing of the cabinet's notice, file a written request for an administrative hearing on the application. The hearing shall be conducted on the application in compliance with the requirements of KRS Chapter 13B. Final orders of the cabinet after administrative hearings shall be subject to judicial review as provided in KRS 13B.140. Jurisdiction and venue for judicial review are vested in the Circuit Court of the county in which the applicant's business would be located.*

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *A cannabis business licensed under this chapter shall:*

- (a) *Comply with Sections 1 to 30 of this Act and any administrative regulations promulgated thereunder by the cabinet;*
- (b) *Conduct a criminal background check into the criminal history of each person seeking to become a principal officer, board member, agent, volunteer, or employee before that person begins work. A cannabis business shall not employ, accept as a volunteer, or have as a board member, principal officer, or agent any person who:*
 - 1. *Was convicted of a disqualifying felony offense; or*
 - 2. *Is younger than twenty-one (21) years of age;*
- (c) *Implement appropriate security measures to deter and prevent the theft of medicinal cannabis and unauthorized entrance into areas containing medicinal cannabis;*
- (d) *Demonstrate sufficient capital such that it can establish its business and meet the needs for its type of cannabis business;*
- (e) *Display its license on the premises at all times; and*
- (f) *Only acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or dispense medicinal cannabis:*
 - 1. *For the purposes of distributing medicinal cannabis to cardholders who possess a valid registry identification card issued by the cabinet, or for visiting qualified patients, a valid out-of-state registry identification card and documentation of having been diagnosed with a qualifying medical condition; and*
 - 2. *From a cannabis business licensed under this chapter.*

- (2) *A cannabis business licensed under this chapter shall not:*

- (a) *Be located within one thousand (1,000) feet of an existing elementary or secondary school or a daycare center;*
- (b) *Acquire, possess, cultivate, process, manufacture, deliver, transfer, transport, supply, dispense, or sell:*
 - 1. *Raw plant material with a delta-9 tetrahydrocannabinol content of more than thirty-five percent (35%);*
 - 2. *Medicinal cannabis products intended for oral consumption as an edible, oil, or tincture with more than ten (10) milligrams of delta-9 tetrahydrocannabinol per serving;*
 - 3. *Any medicinal cannabis product not described in subparagraph 1. or 2. of this paragraph with a delta-9 tetrahydrocannabinol content of more than seventy percent (70%); or*
 - 4. *Any medicinal cannabis product that contains vitamin E acetate;*
- (c) *Permit a person under eighteen (18) years of age to enter or remain on the premises of a cannabis business;*
- (d) *Permit a person who is not a cardholder to enter or remain on the premises of a cannabis business, except in accordance with subsection (6) of this section;*
- (e) *Employ, have as a board member, or be owned by, in part or in whole, a medicinal cannabis practitioner; or*

- (f) *Advertise medicinal cannabis sales in print, broadcast, online, by paid in-person solicitation of customers, or by any other advertising device as defined in KRS 177.830, except that this paragraph shall not prevent appropriate signs on the property of a licensed cannabis business, listings in business directories including phone books, listings in trade or medical publications, or sponsorship of health or not-for-profit charity or advocacy events.*
- (3) *The operating documents of a cannabis business shall include procedures for its oversight and procedures to ensure accurate recordkeeping and inventory control.*
- (4) *When transporting medicinal cannabis on behalf of a cannabis business that is permitted to transport it, a cannabis business agent shall have:*
- (a) *A copy of the cannabis business license for the business that employs the agent;*
 - (b) *Documentation that specifies the amount of medicinal cannabis being transported and the date on which it is being transported; and*
 - (c) *The cannabis business license number and telephone number of any other cannabis business receiving or otherwise involved in the transportation of the medicinal cannabis.*
- (5) *The cultivation of medicinal cannabis for cannabis businesses licensed in this state shall only be done by cultivators and producers licensed under this chapter and shall only take place in an enclosed, locked facility which can only be accessed by cultivator agents working on behalf of the cultivator or producer at the physical address or global positioning system coordinates provided to the cabinet during the license application process.*
- (6) *A person who is at least eighteen (18) years of age but not a cardholder may be allowed to enter and remain on the premises of a cannabis business if:*
- (a) *The person is present at the cannabis business to perform contract work, including but not limited to electrical, plumbing, or security maintenance, that does not involve handling medicinal cannabis; or*
 - (b) *The person is a government employee and is at the cannabis business in the course of his or her official duties.*

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *Cannabis businesses shall be subject to reasonable inspection by the cabinet pursuant to the cabinet's procedures or administrative regulations. The cabinet may inspect any licensed cannabis business premises without having to first obtain a search warrant.*
- (2) *The cabinet may, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the cannabis business has been afforded an opportunity to appear and be heard pursuant to KRS Chapter 13B, suspend or revoke a cannabis business license for multiple violations or a serious violation of Sections 1 to 30 of this Act or any administrative regulations promulgated thereunder by the licensee or any of its agents. A suspension shall not be for a period of time longer than six (6) months.*
- (3) *The cabinet shall provide notice of suspension, revocation, fine, or other penalty, as well as the required notice of the hearing, by mailing, via certified mail, the same in writing to the cannabis business at the address on the license. The cannabis business may, within thirty (30) days after the date of the mailing of the cabinet's notice, file a written request for an administrative hearing regarding the suspension, revocation, fine, or other penalty. The hearing shall be conducted in compliance with the requirements of KRS Chapter 13B.*
- (4) *Final orders of the cabinet after administrative hearings shall be subject to judicial review. Jurisdiction and venue for judicial review are vested in the Circuit Court of the county in which the cannabis business is physically located.*
- (5) *A cultivator may continue to cultivate and possess cannabis plants during a suspension, but it shall not transfer or sell medicinal cannabis during a suspension.*
- (6) *A dispensary may continue to possess its existing medicinal cannabis inventory during a suspension, but it shall not acquire additional medicinal cannabis, or dispense, transfer, or sell medicinal cannabis during a suspension.*

- (7) *A processor may continue to process and possess its existing medicinal cannabis inventory during a suspension, but it shall not acquire additional medicinal cannabis, or dispense, transfer, or sell medicinal cannabis products during a suspension.*
- (8) *A producer may continue to cultivate, process, and possess cannabis plants and its existing medicinal cannabis inventory during a suspension, but it shall not acquire additional medicinal cannabis, or dispense, transfer, or sell medicinal cannabis during a suspension.*
- (9) *A safety compliance facility may continue to possess medicinal cannabis during a suspension, but it shall not receive any new medicinal cannabis, test or otherwise analyze medicinal cannabis, or transfer or transport medicinal cannabis during a suspension.*

➔SECTION 20. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *A cultivator or cultivator agent acting on behalf of a cultivator shall not be subject to prosecution under state or local law, to search or inspection except by the cabinet pursuant to Section 19 of this Act, or to seizure or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board, for acting pursuant to Sections 1 to 30 of this Act and the cabinet's administrative regulations for:*
 - (a) *Acquiring, possessing, planting, cultivating, raising, harvesting, trimming, or storing cannabis seeds, seedlings, plants, or raw plant material;*
 - (b) *Delivering, transporting, transferring, supplying, or selling raw plant material or related supplies to other licensed cannabis businesses in this state; or*
 - (c) *Selling cannabis seeds or seedlings to similar entities that are licensed to cultivate cannabis in this state or in any other jurisdiction.*
- (2) *Cultivators and cultivator agents acting on behalf of a cultivator shall:*
 - (a) *Only deliver raw plant material to a licensed processor, licensed producer, licensed safety compliance facility, or licensed dispensary for fair market value;*
 - (b) *Only deliver raw plant material to a licensed dispensary, processor, or producer after it has been checked by a safety compliance facility agent for cannabinoid contents and contaminants in accordance with administrative regulations promulgated by the cabinet;*
 - (c) *Not supply a dispensary with more than the amount of raw plant material reasonably required by a dispensary; and*
 - (d) *Not deliver, transfer, or sell raw plant material with a delta-9 tetrahydrocannabinol content of more than thirty-five percent (35%) to a licensed dispensary, processor, or producer.*
- (3)
 - (a) *A Tier I cultivator shall not exceed an indoor growth area of two thousand five hundred (2,500) square feet.*
 - (b) *A Tier II cultivator shall not exceed an indoor growth area of ten thousand (10,000) square feet.*
 - (c) *A Tier III cultivator shall not exceed an indoor growth area of twenty-five thousand (25,000) square feet.*
 - (d) *A Tier IV cultivator shall not exceed an indoor growth area of fifty thousand (50,000) square feet.*

➔SECTION 21. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *A dispensary or dispensary agent acting on behalf of a dispensary shall not be subject to prosecution under state or local law, to search or inspection except by the cabinet pursuant to Section 19 of this Act, to seizure or penalty in any manner, or be denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or business licensing board, for acting pursuant to Sections 1 to 30 of this Act and the cabinet's administrative regulations for:*
 - (a) *Acquiring or possessing medicinal cannabis from a cultivator, processor, or producer in this state;*
 - (b) *Acquiring or possessing medicinal cannabis accessories or educational material;*
 - (c) *Supplying, selling, dispensing, distributing, or delivering medicinal cannabis, medicinal cannabis accessories, and educational material to cardholders or other dispensaries;*

- (d) *Selling cannabis seeds to similar entities that are licensed to cultivate cannabis in this state or in any other jurisdiction; or*
 - (e) *Acquiring, accepting, or receiving medicinal cannabis products from a cardholder, except that a dispensary may not offer anything of monetary value in return for medicinal cannabis received from a cardholder. Any medicinal cannabis received by a dispensary under this paragraph or pursuant to Section 13 of this Act shall be destroyed by the dispensary or its agents and shall not be sold, dispensed, or distributed to another cardholder.*
- (2) *A dispensary or dispensary agent acting on behalf of a dispensary shall:*
- (a) *Maintain records that include specific notations of the amount of medicinal cannabis being dispensed to a cardholder and whether it was dispensed directly to a registered qualified patient or visiting qualified patient, or to a registered qualified patient's designated caregiver. Each entry shall include the date and time the medicinal cannabis was dispensed. The data required to be recorded by this paragraph shall be entered into the electronic monitoring system established pursuant to Section 38 of this Act in accordance with administrative regulations promulgated by the cabinet for the recording of medicinal cannabis dispensing;*
 - (b) *Only dispense or sell medicinal cannabis after it has been checked by a safety compliance facility agent for cannabinoid contents and contaminants in accordance with administrative regulations promulgated by the cabinet;*
 - (c) *Only dispense or sell medicinal cannabis to a registered qualified patient, visiting qualified patient, or designated caregiver after making a diligent effort to verify:*
 - 1. *That the registry identification card or, for visiting qualified patients, the out-of-state registry identification card presented to the dispensary is valid, including by checking the verification system, if it is operational, or other cabinet-designated databases;*
 - 2. *That the person presenting the registry identification card or, for visiting qualified patients, the out-of-state registry identification card is at least eighteen (18) years of age and is the person identified on the registry identification card by examining at least one (1) other form of government-issued photo identification; and*
 - 3. *The amount of medicinal cannabis the person is legally permitted to purchase pursuant to Section 4 of this Act by checking the electronic monitoring system established pursuant to Section 38 of this Act;*
 - (d) *Not acquire, possess, dispense, sell, offer for sale, transfer, or transport:*
 - 1. *Raw plant material with a delta-9 tetrahydrocannabinol content of more than thirty-five percent (35%);*
 - 2. *Medicinal cannabis products intended for oral consumption as an edible, oil, or tincture with more than ten (10) milligrams of delta-9 tetrahydrocannabinol per serving;*
 - 3. *Any medicinal cannabis product not described in subparagraph 1. or 2. of this paragraph with a delta-9 tetrahydrocannabinol content of more than seventy percent (70%); or*
 - 4. *Any medicinal cannabis product that contains vitamin E acetate;*
 - (e) *Not acquire medicinal cannabis from any person other than a cannabis business licensed under this chapter, or an agent thereof, a registered qualified patient, or a designated caregiver;*
 - (f) *Not sell or dispense medicinal cannabis products intended for consumption by vaporizing to a cardholder who is younger than twenty-one (21) years of age or to a designated caregiver for a registered qualified patient who is younger than twenty-one (21) years of age;*
 - (g) *Not dispense or sell medicinal cannabis to a minor;*
 - (h) *Not dispense or sell more medicinal cannabis to a cardholder than he or she is legally permitted to purchase at the time of the transaction; and*
 - (i) *Not rent office space to a medicinal cannabis practitioner.*

- (3) (a) *A dispensary may operate a delivery service for cardholders and may deliver medicinal cannabis, medicinal cannabis accessories, and educational material to cardholders at the address identified on the cardholder's registry identification.*
- (b) *All delivery services operated or offered by a dispensary shall comply with administrative regulations promulgated by the cabinet pursuant to this section and Section 27 of this Act.*
- (4) *If a dispensary or dispensary agent fails to comply with subsection (2)(c), (d), (e), (f), or (g) of this section, the dispensary and dispensary agent are liable in a civil action for compensatory and punitive damages and reasonable attorney's fees to any person or the representative of the estate of any person who sustains injury, death, or loss to person or property as a result of the failure to comply with subsection (2)(c), (d), (e), (f), or (g) of this section. In any action under this subsection, the court may also award any injunctive or equitable relief that the court considers appropriate.*

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *A processor or processor agent acting on behalf of a processor shall not be subject to prosecution under state or local law, to search or inspection except by the cabinet pursuant to Section 19 of this Act, to seizure or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board, for acting pursuant to Sections 1 to 30 of this Act and the cabinet's administrative regulations for:*
- (a) *Acquiring or purchasing raw plant material from a cultivator, processor, or producer in this state;*
- (b) *Possessing, processing, preparing, manufacturing, manipulating, blending, preparing, or packaging medicinal cannabis;*
- (c) *Transferring, transporting, supplying, or selling medicinal cannabis and related supplies to other cannabis businesses in this state; or*
- (d) *Selling cannabis seeds or seedlings to similar entities that are licensed to cultivate cannabis in this state or in any other jurisdiction.*
- (2) *A processor licensed under this section shall not possess, process, produce, or manufacture:*
- (a) *Raw plant material with a delta-9 tetrahydrocannabinol content of more than thirty-five percent (35%);*
- (b) *Medicinal cannabis products intended for oral consumption as an edible, oil, or tincture with more than ten (10) milligrams of delta-9 tetrahydrocannabinol per serving;*
- (c) *Any medicinal cannabis product not described in paragraph (a) or (b) of this subsection with a delta-9 tetrahydrocannabinol content of more than seventy percent (70%); or*
- (d) *Any medicinal cannabis product that contains vitamin E acetate.*

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *A producer or producer agent acting on behalf of a producer shall not be subject to prosecution under state or local law, to search or inspection except by the cabinet pursuant to Section 19 of this Act, to seizure or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board, for acting pursuant to Sections 1 to 30 of this Act and the cabinet's administrative regulations for:*
- (a) *Acquiring, possessing, planting, cultivating, raising, harvesting, trimming, or storing cannabis seeds, seedlings, plants, or raw plant material;*
- (b) *Delivering, transporting, transferring, supplying, or selling raw plant material, medicinal cannabis products, or related supplies to other licensed cannabis businesses in this state;*
- (c) *Selling cannabis seeds or seedlings to similar entities that are licensed to cultivate cannabis in this state or in any other jurisdiction;*
- (d) *Acquiring or purchasing raw plant material from a cultivator in this state; or*
- (e) *Possessing, processing, preparing, manufacturing, manipulating, blending, preparing, or packaging medicinal cannabis.*
- (2) *Producers and producer agents acting on behalf of a producer shall:*

- (a) *Only deliver raw plant material to a licensed processor, licensed producer, licensed safety compliance facility, or licensed dispensary for fair market value;*
 - (b) *Only deliver raw plant material to a licensed dispensary, processor, or producer after it has been checked by a safety compliance facility agent for cannabinoid contents and contaminants in accordance with administrative regulations promulgated by the cabinet;*
 - (c) *Not supply a dispensary with more than the amount of raw plant material reasonably required by a dispensary; and*
 - (d) *Be limited to an indoor cannabis growth area of fifty thousand (50,000) square feet.*
- (3) *A producer licensed under this section shall not possess, process, produce, or manufacture:*
- (a) *Raw plant material with a delta-9 tetrahydrocannabinol content of more than thirty-five percent (35%);*
 - (b) *Medicinal cannabis products intended for oral consumption as an edible, oil, or tincture with more than ten (10) milligrams of delta-9 tetrahydrocannabinol per serving;*
 - (c) *Any medicinal cannabis product not described in paragraph (a) or (b) of this subsection with a delta-9 tetrahydrocannabinol content of more than seventy percent (70%); or*
 - (d) *Any medicinal cannabis product that contains vitamin E acetate.*

➔SECTION 24. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

A safety compliance facility or safety compliance facility agent acting on behalf of a safety compliance facility shall not be subject to prosecution, search except by the cabinet pursuant to Section 19 of this Act, seizure, or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board, for acting in accordance with Sections 1 to 30 of this Act and the cabinet's administrative regulations to provide the following services:

- (1) *Acquiring or possessing medicinal cannabis obtained from cardholders or cannabis businesses in this state;*
- (2) *Returning the medicinal cannabis to cardholders or cannabis businesses in this state;*
- (3) *Transporting medicinal cannabis that was produced by cannabis businesses in this state;*
- (4) *The production or sale of approved educational materials related to the use of medicinal cannabis;*
- (5) *The production, sale, or transportation of equipment or materials other than medicinal cannabis, including but not limited to lab equipment and packaging materials that are used by cannabis businesses and cardholders, to cardholders or cannabis businesses licensed under this chapter;*
- (6) *Testing of medicinal cannabis produced in this state, including testing for cannabinoid content, pesticides, mold, contamination, vitamin E acetate, and other prohibited additives;*
- (7) *Training cardholders and cannabis business agents. Training may include but need not be limited to:*
 - (a) *The safe and efficient cultivation, harvesting, packaging, labeling, and distribution of medicinal cannabis;*
 - (b) *Security and inventory accountability procedures; and*
 - (c) *Up-to-date scientific and medical research findings related to use of medicinal cannabis;*
- (8) *Receiving compensation for actions allowed under this section; and*
- (9) *Engaging in any noncannabis-related business activities that are not otherwise prohibited or restricted by state law.*

➔SECTION 25. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *For the purposes of this section, "local government" means a city, county, urban-county government, consolidated local government, charter county government, or unified local government.*
- (2) *A local government may:*
 - (a) *Enact ordinances not in conflict with Sections 1 to 30 of this Act or with the cabinet's administrative regulations, regulating the time, place, and manner of cannabis business operations, except that a*

local government shall not enact ordinances that impose an undue burden or make cannabis business operations unreasonable or impractical;

- (b) Prohibit all cannabis business operations within its territory through the passage of an ordinance; or*
 - (c) Enact resolutions directing that the question of prohibiting cannabis businesses from operating within its territory be submitted to the voters of its territory at the next regular election pursuant to subsection (5)(j) of this section.*
- (3) If a county, consolidated local government, charter county government, or unified local government prohibits all cannabis business operations, the legislative body of a city located within the county, consolidated local government, charter county government, or unified local government may:*
- (a) Approve cannabis business operations within the limits of the city through the passage of an ordinance; or*
 - (b) Enact resolutions directing that the question of allowing cannabis businesses to operate within the limits of the city be submitted to the voters who are eligible to vote in that city's elections at the next regular election pursuant to subsection (5)(j) of this section.*
- (4) If a local government legislative body with jurisdiction prohibits cannabis business operations through the passage of an ordinance, a public question that is initiated by petition and that proposes allowing a cannabis business to operate within the affected territory is authorized.*
- (5) A public question that is initiated by petition and is authorized by subsection (4) of this section shall be submitted to the voters within the affected territory at the next regular election by complying with the following requirements:*
- (a) Before a petition for submission of the proposal may be presented for signatures, an intent to circulate the petition, including a copy of the unsigned petition, shall be filed with the county clerk of the affected territory by any person or group of persons seeking the submission of the public question. The statement of intent shall include the addresses of the person or group of persons and shall specify the person or group of persons, as well as the address, to whom all notices are to be sent. Within ten (10) days after the intent to circulate the petition is filed, the county clerk shall deliver a copy of the intent to circulate the petition, including a copy of the unsigned petition, to the legislative body of the affected territory;*
 - (b) The petition shall set out in full the following question: "Are you in favor of the sale of medicinal cannabis at a licensed dispensary and the operation of other cannabis businesses in (affected territory)?"*;
 - (c) The petition for the submission of the proposal shall be signed by a number of constitutionally qualified voters of the territory to be affected equal to five percent (5%) of registered voters for the affected territory;*
 - (d) Each signature shall be executed in ink or indelible pencil and shall be followed by the legibly printed name of each voter, followed by the voter's residence address, year of birth, and the correct date upon which the voter's name was signed;*
 - (e) No petition for the submission of the proposal shall be circulated for more than six (6) months prior to its filing;*
 - (f) After a petition for the submission of the proposal has received no fewer than the number of qualifying signatures required by paragraph (c) of this subsection, the signed petition shall be filed with the county clerk. When it is filed, each sheet of the petition shall have an affidavit executed by the circulator stating that he or she personally circulated the sheet, the number of signatures thereon, that all signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of registered voters within the affected territory, and that each signer had an opportunity before signing to read the full text of the proposal;*
 - (g) No signer of the petition may withdraw his or her name or have it taken from the petition after the petition has been filed. If the name of any person has been placed on the petition for submission of the public question without that person's authority, the person may, at any time prior to certification of sufficiency of the petition by the county clerk as required by paragraph (h) of this subsection, request the removal of his or her name by the county board of elections and, upon proof that the*

person's name was placed on the petition without his or her authority, the person's name and personal information shall be eliminated, and he or she shall not be counted as a petitioner;

- (h) *Within thirty (30) days after the petition is filed, the county clerk shall complete a certificate as to its sufficiency or, if it is insufficient, specifying the particulars of the insufficiency, and shall send a copy to the person or persons specified in the statement of intent to receive all notices and to the legislative body of the affected territory, all by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once by filing a supplemental petition upon additional sheets within thirty (30) days after receiving the certificate of insufficiency. The supplemental petition shall comply with the requirements applicable to the original petition and, within ten (10) days after it is filed, the county clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of the certificate to the person or persons specified to receive all notices and to the legislative body of the affected territory by registered mail;*
 - (i) *A final determination as to the sufficiency of a petition shall be subject to review in the Circuit Court of the county of the affected territory and shall be limited to the validity of the county clerk's determination. A final determination of insufficiency shall not prejudice the filing of a new petition for the same purpose; and*
 - (j) *If, not later than the second Tuesday in August preceding the day established for a regular election, the county clerk has certified that a petition is sufficient or has received a local government resolution pursuant to subsection (2) or (3) of this section, the county clerk shall have prepared to place before the voters of the affected territory at the next regular election the question, which shall be "Are you in favor of the sale of medicinal cannabis at a licensed dispensary and the operation of other cannabis businesses in (affected territory)? Yes....No....". The county clerk shall cause to be published in accordance with KRS Chapter 424, at the same time as the remaining voter information, the full text of the proposal. The county clerk shall cause to be posted in each polling place one (1) copy of the full text of the proposal.*
 - (6) *If the question submitted to the voters under subsection (3) or (5) of this section fails to pass, three (3) years shall elapse before the question of medicinal cannabis sales and cannabis business operations may be included on a regular election ballot for the affected territory.*
 - (7) *If the question submitted to the voters under subsection (3) or (5) of this section passes, medicinal cannabis sales and cannabis business operations may be conducted in the affected territory, notwithstanding any local government ordinances which prohibit all cannabis business operations within its territory.*
 - (8) *In circumstances where a county, consolidated local government, charter county government, or unified local government prohibits cannabis business operations but a city within that county, consolidated local government, charter county government, or unified local government approves cannabis business operations either through the adoption of an ordinance or following the affirmative vote of a public question allowing cannabis business operations, then:*
 - (a) *The cannabis business operations may proceed within the limits of the city; and*
 - (b) *The county, consolidated local government, charter county government, or unified local government may assess an additional reasonable fee to compensate for any additional corrections impact caused by the approval of cannabis business operations. Any additional fees collected pursuant to this subsection shall not exceed the additional corrections impact caused by the approval of cannabis business operations.*
 - (9) *In circumstances where neither a city or the county, urban-county government, consolidated local government, charter county government, or unified local government in which the city is located prohibit cannabis business operations, a cannabis business that is located within the jurisdiction of both the city and the county shall only pay the reasonable established local fees of either the city or the county. The fee shall be established, assessed, collected, and shared between the city and the county, in a manner to be negotiated between the city and the county.*
 - (10) *The provisions of general election law shall apply to public questions submitted to voters under this section.*
- ➔SECTION 26. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:
- (1) *The cabinet shall maintain a confidential list of the persons to whom the cabinet has issued registry identification cards and their addresses, telephone numbers, and registry identification numbers.*

- (2) *The cabinet shall, only at a cardholder's request, confirm his or her status as a registered qualified patient, visiting qualified patient, or designated caregiver to a third party, such as a landlord, employer, school, medical professional, or court.*
- (3) *The following information received and records kept pursuant to the cabinet's administrative regulations promulgated for purposes of administering Sections 1 to 30 of this Act shall be confidential and exempt from the Open Records Act, KRS 61.870 to 61.884, and shall not be subject to disclosure to any individual or public or private entity, except as necessary for authorized employees of the cabinet to perform official duties pursuant to Sections 1 to 30 of this Act:*
- (a) *Applications and renewals, their contents, and supporting information submitted by qualified patients, visiting qualified patients, and designated caregivers in compliance with Section 10 of this Act, including information regarding their designated caregivers and medicinal cannabis practitioners;*
 - (b) *The individual names and other information identifying persons to whom the cabinet has issued registry identification cards;*
 - (c) *Any dispensing information required to be kept under Section 21 of this Act or the cabinet's administrative regulations which shall only identify cardholders by their registry identification numbers and shall not contain names or other personal identifying information; and*
 - (d) *Any cabinet hard drives or other data-recording media that are no longer in use and that contain cardholder information. These hard drives and other media shall be destroyed after a reasonable time or after the data is otherwise stored.*

Data subject to this section shall not be combined or linked in any manner with any other list or database maintained by the cabinet and shall not be used for any purpose not provided for in Sections 1 to 30 of this Act.

- (4) *Nothing in this section shall preclude the following:*
- (a) *Notification by the cabinet's employees to state or local law enforcement about falsified or fraudulent information submitted to the cabinet or of other apparently criminal violations of Sections 1 to 30 of this Act if the employee who suspects that falsified or fraudulent information has been submitted has conferred with his or her supervisor and both agree that circumstances exist that warrant reporting;*
 - (b) *Notification by the cabinet's employees to state licensing board if the cabinet has reasonable suspicion to believe a medicinal cannabis practitioner did not have a bona fide practitioner-patient relationship with a patient for whom he or she signed a written certification, if the cabinet has reasonable suspicion to believe the medicinal cannabis practitioner violated the standard of care, or for other suspected violations of Sections 1 to 30 of this Act by a medicinal cannabis practitioner;*
 - (c) *Notification by dispensary agents to the cabinet of a suspected violation or attempted violation of Sections 1 to 30 of this Act or the administrative regulations promulgated thereunder;*
 - (d) *Verification by the cabinet of registry identification cards issued pursuant to Sections 10, 11, and 12 of this Act; and*
 - (e) *The submission of the report required by Section 3 of this Act to the General Assembly.*
- (5) *It shall be a misdemeanor punishable by up to one hundred eighty (180) days in jail for any person, including an employee or official of the cabinet or another state agency or local government, to knowingly breach the confidentiality of information obtained pursuant to Sections 1 to 30 of this Act.*

➔SECTION 27. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) *No later than July 1, 2024, the cabinet shall:*
- (a) *Ensure that the electronic monitoring system established pursuant to Section 38 of this Act is designed or configured to enable:*
 - 1. *Medicinal cannabis practitioners to record the issuance of written certifications to qualified patients, as required by Section 9 of this Act;*
 - 2. *The cabinet and state licensing boards to monitor the issuance of written certifications by medicinal cannabis practitioners;*

3. *Cabinet personnel, law enforcement personnel, and dispensary agents to verify the validity of registry identification cards issued by the cabinet by entering a registry identification number to determine whether or not the identification number corresponds with a current, valid registry identification card. The system shall only disclose whether the identification card is valid and whether the cardholder is a registered qualified patient, visiting qualified patient, or designated caregiver;*
 4. *Law enforcement personnel and dispensary agents to access medicinal cannabis sales data recorded by dispensary agents pursuant to Section 21 of this Act;*
 5. *Dispensary agents to record the amount of medicinal cannabis that is dispensed to a cardholder during each transaction as required by Section 21 of this Act; and*
 6. *The sharing of dispensing data recorded by dispensary agents pursuant to Section 21 of this Act with all dispensaries in real time;*
- (b) *Ensure that the electronic monitoring system established pursuant to Section 38 of this Act is designed to facilitate the tracking of medicinal cannabis from the point of cultivation to the point of sale to cardholders; and*
- (c) *Promulgate administrative regulations in accordance with KRS Chapter 13A to establish:*
1. *Procedures for the issuance, renewal, suspension, and revocation of registry identification cards, including the creation of a standardized:*
 - a. *Written certification form; and*
 - b. *Application form which the cabinet shall require to be notarized;*
 2. *Procedures for the issuance and revocation of registry identification cards;*
 3. *Procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses, including the creation of a uniform licensure application form which the cabinet shall require to be notarized and minimal performance standards for a biennial accreditation process with all such procedures subject to the requirements of KRS Chapters 13A and 13B;*
 4. *A convenience fee to be assessed and collected by dispensaries for visiting qualified patients who do not possess a valid registry identification card issued by the cabinet and who purchase medicinal cannabis with an out-of-state registry identification card and documentation of having been diagnosed with a qualifying medical condition. The convenience fee established pursuant to this subparagraph shall not exceed fifteen dollars (\$15) per transaction;*
 5. *In collaboration with the Board of Physicians and Advisors, the Kentucky Board of Medical Licensure, the Kentucky Board of Nursing, and the Kentucky Center for Cannabis:*
 - a. *A definition of the amount of medicinal cannabis or delta-9 tetrahydrocannabinol that constitutes a daily supply, an uninterrupted ten (10) day supply, and an uninterrupted thirty (30) day supply of medicinal cannabis; and*
 - b. *The amount of raw plant material that medicinal cannabis products are considered to be equivalent to;*
 6. *A process by which a medicinal cannabis practitioner may recommend, and a registered qualified patient or his or her designated caregiver may legally purchase and possess, an amount of medicinal cannabis in excess of the thirty (30) day supply of medicinal cannabis, if the medicinal cannabis practitioner reasonably believes that the standard thirty (30) day supply would be insufficient in providing the patient with uninterrupted therapeutic or palliative relief;*
 7. *Provisions governing the following matters related to cannabis businesses with the goal of protecting against diversion and theft, without imposing any undue burden that would make cannabis business operations unreasonable or impractical on cannabis businesses or compromising the confidentiality of cardholders:*
 - a. *Recordkeeping and inventory control requirements, including the use of the electronic monitoring systems established pursuant to Section 38 of this Act;*

- b. Procedures for the verification and validation of a registry identification card, or its equivalent, that was issued pursuant to the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows for the use of medicinal cannabis in the jurisdiction of issuance;*
 - c. Security requirements for safety compliance facilities, processors, producers, dispensaries, and cultivators, which shall include at a minimum lighting, video security, alarm requirements, on-site parking, and measures to prevent loitering;*
 - d. Procedures for the secure transportation, including delivery services provided by dispensaries, and storage of medicinal cannabis by cannabis business licensees and their employees or agents;*
 - e. Employment and training requirements for licensees and their agents, including requiring each licensee to create an identification badge for each of the licensee's agents or employees; and*
 - f. Restrictions on visits to licensed cultivation and processing facilities, including requiring the use of visitor logs;*
- 8. Procedures to establish, publish, and annually update a list of varieties of cannabis that possess a low but effective level of tetrahydrocannabinol, including the substance cannabidiol, by comparing percentages of chemical compounds within a given variety against other varieties of cannabis;*
- 9. A rating system that tracks the terpene content of at least the twelve (12) major terpenoids within each strain of cannabis available for medicinal use within the Commonwealth;*
- 10. Requirements for random sample testing of medicinal cannabis to ensure quality control, including testing for cannabinoids, terpenoids, residual solvents, pesticides, poisons, toxins, mold, mildew, insects, bacteria, and any other dangerous adulterant;*
- 11. Requirements for licensed cultivators, producers, and processors to contract with an independent safety compliance facility to test the medicinal cannabis before it is sold at a dispensary. The cabinet may approve the safety compliance facility chosen by a cultivator, producer, or processor and require that the safety compliance facility report test results for a designated quantity of medicinal cannabis to the cultivator, producer, or processor and cabinet;*
- 12. Standards for the operation of safety compliance facilities which may include:*
 - a. Requirements for equipment;*
 - b. Personnel qualifications; and*
 - c. Requiring facilities to be accredited by a relevant certifying entity;*
- 13. Standards for the packaging and labeling of medicinal cannabis sold or distributed by cannabis businesses which shall comply with 15 U.S.C. secs. 1471 to 1476 and shall include:*
 - a. Standards for packaging that requires at least a two (2) step process of initial opening;*
 - b. A warning label which may include the length of time it typically takes for the product to take effect, how long the effects of the product typically last, and any other information deemed appropriate or necessary by the cabinet;*
 - c. The amount of medicinal cannabis the product is considered the equivalent to;*
 - d. Disclosing ingredients, possible allergens, and certain bioactive components, including cannabinoids and terpenoids, as determined by the cabinet;*
 - e. A nutritional fact panel;*
 - f. Opaque, child-resistant packaging;*
 - g. A requirement that all raw plant material packaged or sold in this state be marked or labeled as "NOT INTENDED FOR CONSUMPTION BY SMOKING";*

- h. *A requirement that medicinal cannabis products be clearly marked with an identifiable and standardized symbol indicating that the product contains cannabis;*
 - i. *A requirement that all medicinal cannabis product packaging include an expiration date; and*
 - j. *A requirement that medicinal cannabis products and their packaging not be visually reminiscent of major brands of edible noncannabis products or otherwise present an attractive nuisance to minors;*
14. *Health and safety requirements for the processing of medicinal cannabis and the indoor cultivation of medicinal cannabis by licensees;*
 15. *Restrictions on:*
 - a. *Additives to medicinal cannabis that are toxic, including vitamin E acetate, or increase the likelihood of addiction; and*
 - b. *Pesticides, fertilizers, and herbicides used during medicinal cannabis cultivation which pose a threat to human health and safety;*
 16. *Standards for the safe processing of medicinal cannabis products created by extracting or concentrating compounds from raw plant material;*
 17. *Standards for determining the amount of unprocessed raw plant material that medicinal cannabis products are considered the equivalent to;*
 18. *Restrictions on advertising, marketing, and signage in regard to operations or establishments owned by licensees necessary to prevent the targeting of minors;*
 19. *The requirement that evidence-based educational materials regarding dosage and impairment be disseminated to registered qualified patients, visiting qualified patients, and designated caregivers who purchase medicinal cannabis products;*
 20. *Policies governing insurance requirements for cultivators, dispensaries, processors, producers, and safety compliance facilities; and*
 21. *Standards, procedures, or restrictions that the cabinet deems necessary to ensure the efficient, transparent, and safe operation of the medicinal cannabis program, except that the cabinet shall not promulgate any administrative regulation that would impose an undue burden or make cannabis business operations unreasonable or impractical.*
- (2) *Except as provided in subsection (1)(g) of Section 6 of this Act, subsection (2)(b) of Section 18 of this Act, subsection (2)(d) of Section 21 of this Act, subsection (2) of Section 22 of this Act, subsection (3) of Section 23 of this Act, and subsection (1)(c)10., 13., 15., and 16. of this section, the cabinet shall not restrict or limit methods of delivery, use, or consumption of medicinal cannabis or the types of products that may be acquired, produced, processed, possessed, sold, or distributed by a cannabis business.*
 - (3) *If a need for additional cannabis cultivation in this state is demonstrated by cannabis businesses or the cabinet's own analysis, the cabinet may through the promulgation of administrative regulations increase the cultivation area square footage limits for either cultivators or producers, or both by up to three (3) times the limits established in Sections 20 and 23 of this Act. Any increase in the cultivation square footage limits adopted by the cabinet pursuant to this section shall not result in an increase in the licensure application or renewal fees established by the cabinet.*
 - (4) *When promulgating administrative regulations under this section, the cabinet shall consider standards, procedures, and restrictions that have been found to be best practices relative to the use and regulation of medicinal cannabis.*

➔SECTION 28. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

If the Kentucky Center for Cannabis established in KRS 164.983, or its successor, determines that sufficient scientific data and evidence exists to demonstrate that an individual diagnosed with that specific medical condition or disease is likely to receive medical, therapeutic, or palliative benefits from the use of medicinal cannabis, the center shall notify the cabinet, the Kentucky Board of Medical Licensure, and the Kentucky Board of Nursing of its determination and the specific medical condition or disease shall be considered to be a qualifying medical condition as defined in Section 1 of this Act.

➔SECTION 29. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 30 of this Act shall require a government medical assistance program, private health insurer or workers' compensation carrier, or self-funded employer providing workers' compensation benefits to reimburse a person for costs associated with the use of medicinal cannabis.

➔SECTION 30. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 138.870 to 138.889 shall not apply to any individual or entity for:

- (1) *Any amount of medicinal cannabis that is necessary or reasonably necessary for use of a license or registry identification card issued by the cabinet; or*
- (2) *Any use of medicinal cannabis that complies with Sections 1 to 30 of this Act and any administrative regulations promulgated thereunder.*

➔Section 31. KRS 138.870 is amended to read as follows:

As used in KRS 138.870 to 138.889, unless the context requires otherwise:

- (1) "Marijuana":
 - (a) Means marijuana, whether real or counterfeit, as defined in KRS 218A.010; *and*
 - (b) *Does not include medicinal cannabis as defined in Section 1 of this Act.*
- (2) "Controlled substance" means any controlled substance, whether real or counterfeit, as defined in KRS 218A.010 or any regulation promulgated thereunder, except that it shall not include marijuana *or medicinal cannabis*.
- (3) "Offender" means a person who engages in this state in a taxable activity as defined in subsection (4) of this section.
- (4) "Taxable activity" means producing, cultivating, manufacturing, importing, transporting, distributing, acquiring, purchasing, storing, selling, using, or otherwise possessing, in violation of KRS Chapter 218A, more than five (5) marijuana plants with foliage, 42.5 grams of marijuana which has been detached from the plant on which it grew, seven (7) grams of any controlled substance, or fifty (50) or more dosage units of any controlled substance which is not sold by weight. The weight or dosage units in this subsection shall include the weight of marijuana or the weight or dosage units of the controlled substance, whether pure, impure, or diluted. A quantity of a controlled substance is diluted if it consists of a detectable quantity of a pure controlled substance and any excipients or fillers.
- (5) "Dosage unit" means a tablet, capsule, vial, or ampule of a controlled substance or, in cases of mass volume or diluted quantities, the proper dose or quantity of a controlled substance to be taken all at one (1) time or in fractional amounts within a given period, as defined and adopted by the United States Pharmacopeia.
- (6) "Possessing" includes either actual possession or constructive possession, or a combination of both actual and constructive possession. Mere possession or ownership of real estate or an interest therein does not establish constructive possession.

➔Section 32. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

- (1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;
- (2) Coal for the manufacture of electricity;
- (3) (a) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining and any related distribution, transmission, and transportation services for this energy that are billed to the user, to the extent that the cost of the energy or energy-producing fuels used, and related distribution, transmission, and transportation services for this energy that are billed to the user exceed three percent (3%) of the cost of production.

- (b) Cost of production shall be computed on the basis of a plant facility, which shall include all operations within the continuous, unbroken, integrated manufacturing or industrial processing process that ends with a product packaged and ready for sale.
- (c) A person who performs a manufacturing or industrial processing activity for a fee and does not take ownership of the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity is a toller. For periods on or after July 1, 2018, the costs of the tangible personal property shall be excluded from the toller's cost of production at a plant facility with tolling operations in place as of July 1, 2018.
- (d) For plant facilities that begin tolling operations after July 1, 2018, the costs of tangible personal property shall be excluded from the toller's cost of production if the toller:
 - 1. Maintains a binding contract for periods after July 1, 2018, that governs the terms, conditions, and responsibilities with a separate legal entity, which holds title to the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity;
 - 2. Maintains accounting records that show the expenses it incurs to fulfill the binding contract that include but are not limited to energy or energy-producing fuels, materials, labor, procurement, depreciation, maintenance, taxes, administration, and office expenses;
 - 3. Maintains separate payroll, bank accounts, tax returns, and other records that demonstrate its independent operations in the performance of its tolling responsibilities;
 - 4. Demonstrates one (1) or more substantial business purposes for the tolling operations germane to the overall manufacturing, industrial processing activities, or corporate structure at the plant facility. A business purpose is a purpose other than the reduction of sales tax liability for the purchases of energy and energy-producing fuels; and
 - 5. Provides information to the department upon request that documents fulfillment of the requirements in subparagraphs 1. to 4. of this paragraph and gives an overview of its tolling operations with an explanation of how the tolling operations relate and connect with all other manufacturing or industrial processing activities occurring at the plant facility;
- (4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;
- (5) Poultry for use in breeding or egg production;
- (6) Farm work stock for use in farming operations;
- (7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;
- (8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;
- (9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;
- (10) Machinery for new and expanded industry;
- (11) Farm machinery. As used in this section, the term "farm machinery":
 - (a) Means machinery used exclusively and directly in the occupation of:
 - 1. Tilling the soil for the production of crops as a business;
 - 2. Raising and feeding livestock or poultry for sale; or

3. Producing milk for sale;
 - (b) Includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used, including but not limited to combine header wagons, combine header trailers, or any other implements specifically designed and used to move or transport a combine head; and
 - (c) Does not include:
 1. Automobiles;
 2. Trucks;
 3. Trailers, except combine header trailers; or
 4. Truck-trailer combinations;
- (12) Tombstones and other memorial grave markers;
- (13) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (14) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:
 - (a) Operate farm machinery as defined in subsection (11) of this section;
 - (b) Operate on-farm grain or soybean drying facilities as defined in subsection (13) of this section;
 - (c) Operate on-farm poultry or livestock facilities defined in subsection (14) of this section;
 - (d) Operate on-farm ratite facilities defined in subsection (23) of this section;
 - (e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this section; or
 - (f) Operate on-farm dairy facilities;
- (16) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;
- (17) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- (19) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (20)
 - (a)
 1. Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures as part of an approved supplemental project, as defined by KRS 154.26-010; and
 2. Materials, supplies, and repair or replacement parts purchased for use in the operation and maintenance of a blast furnace and related carbon steel-making operations as part of an approved supplemental project, as defined by KRS 154.26-010.
 - (b) The exemptions provided in this subsection shall be effective for sales made:
 1. On and after July 1, 2018; and

2. During the term of a supplemental project agreement entered into pursuant to KRS 154.26-090;
- (21) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;
- (22) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;
- (23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (24) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;
- (25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (26) Baling twine and baling wire for the baling of hay and straw;
- (27) Water sold to a person regularly engaged in the business of farming and used in the:
- (a) Production of crops;
 - (b) Production of milk for sale; or
 - (c) Raising and feeding of:
 - 1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or
 - 2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;
- (28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 - (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the

exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

- (29) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Water;
 - (c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 - (d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquefied petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:
- (a) Feed and feed additives;
 - (b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and
 - (c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;
- (31) (a) Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;
- (b) Repair or replacement parts for the direct operation and maintenance of a motor vehicle operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281, or under similar authority granted by the United States Department of Transportation; and
- (c) For the purposes of this subsection, "repair or replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair or replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes;
- (32) Food donated by a retail food establishment or any other entity regulated under KRS 217.127 to a nonprofit organization for distribution to the needy; ~~and~~
- (33) Drugs and over-the counter drugs, as defined in KRS 139.472, that are purchased by a person regularly engaged in the business of farming and used in the treatment of cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas, buffalo, aquatic organisms, or cervids; **and**
- (34) ***Medicinal cannabis as defined in Section 1 of this Act when sold, used, stored, or consumed in accordance with Sections 1 to 30 of this Act.***
- ➔Section 33. KRS 216B.402 is amended to read as follows:
- (1) When a person is admitted to a hospital emergency department or hospital emergency room for treatment of a drug overdose:

- (a)~~{(1)}~~ The person shall be informed of available substance use disorder treatment services known to the hospital that are provided by that hospital, other local hospitals, the local community mental health center, and any other local treatment programs licensed pursuant to KRS 222.231;
- (b)~~{(2)}~~ The hospital may obtain permission from the person when stabilized, or the person's legal representative, to contact any available substance use disorder treatment programs offered by that hospital, other local hospitals, the local community mental health center, or any other local treatment programs licensed pursuant to KRS 222.231, on behalf of the person to connect him or her to treatment; and
- (c)~~{(3)}~~ The local community mental health center may provide an on-call service in the hospital emergency department or hospital emergency room for the person who was treated for a drug overdose to provide information about services and connect the person to substance use disorder treatment, as funds are available. These services, when provided on the grounds of a hospital, shall be coordinated with appropriate hospital staff.

- (2) ***When a person, who is a registered qualified patient or a visiting qualified patient as defined in Section 1 of this Act, is admitted to a hospital emergency department or a hospital emergency room for treatment of cannabinoid hyperemesis syndrome, the hospital shall notify the cabinet within forty-eight (48) hours. Notification shall include the registered qualified patient's or a visiting qualified patient's name and registry identification card number, if available. The cabinet shall record all cases of cannabinoid hyperemesis syndrome in the electronic monitoring system established pursuant to Section 38 of this Act.***

➔Section 34. KRS 218A.010 is amended to read as follows:

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

- (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
- (a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or
- (b) The patient or research subject at the direction and in the presence of the practitioner;
- (2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances classified as Schedule III controlled substances pursuant to KRS 218A.020 but does not include estrogens, progestins, and anticosteroids;
- (3) "Cabinet" means the Cabinet for Health and Family Services;
- (4) "Carfentanil" means any substance containing any quantity of carfentanil, or any of its salts, isomers, or salts of isomers;
- (5) "Certified community based palliative care program" means a palliative care program which has received certification from the Joint Commission;
- (6) "Child" means any person under the age of majority as specified in KRS 2.015;
- (7) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical and geometric isomers, and salts of isomers;
- (8) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;
- (9) (a) "Controlled substance analogue," except as provided in paragraph (b) of this subsection, means a substance:
1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
 2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
 3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to

or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

- (b) Such term does not include:
1. Any substance for which there is an approved new drug application;
 2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
 3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;
- (10) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;
- (11) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
- (12) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user;
- (13) "Distribute" means to deliver other than by administering or dispensing a controlled substance;
- (14) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of administration available as a single unit;
- (15) "Drug" means:
- (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
 - (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;
 - (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
 - (d) Substances intended for use as a component of any article specified in this subsection.
- It does not include devices or their components, parts, or accessories;
- (16) "Fentanyl" means a substance containing any quantity of fentanyl, or any of its salts, isomers, or salts of isomers;
- (17) "Fentanyl derivative" means a substance containing any quantity of any chemical compound, except compounds specifically scheduled as controlled substances by statute or by administrative regulation pursuant to this chapter, which is structurally derived from 1-ethyl-4-(N-phenylamido) piperidine:
- (a) By substitution:
 1. At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or ethyloxotetrazole ring system; and
 2. Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl, or furanyl group; and
 - (b) Which may be further modified in one (1) or more of the following ways:
 1. By substitution on the N-phenyl ring to any extent with alkyl, alkoxy, haloalkyl, hydroxyl, or halide substituents;
 2. By substitution on the piperadine ring to any extent with alkyl, allyl, alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6- positions;
 3. By substitution on the piperadine ring to any extent with a phenyl, alkoxy, or carboxylate ester substituent at the 4- position; or

4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or hydroxy substituents;
- (18) "Good faith prior examination," as used in KRS Chapter 218A and for criminal prosecution only, means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B;
- (19) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:
- (a) Poses an explosion hazard;
 - (b) Poses a fire hazard; or
 - (c) Is poisonous or injurious if handled, swallowed, or inhaled;
- (20) "Heroin" means a substance containing any quantity of heroin, or any of its salts, isomers, or salts of isomers;
- (21) "Hydrocodone combination product" means a drug with:
- (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium; or
 - (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (22) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture;
- (23) "Industrial hemp" has the same meaning as in KRS 260.850;
- (24) "Industrial hemp products" has the same meaning as in KRS 260.850;
- (25) "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine;
- (26) "Isomer" means the optical isomer, except the Cabinet for Health and Family Services may include the optical, positional, or geometric isomer to classify any substance pursuant to KRS 218A.020;
- (27) "Manufacture," except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:
- (a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice;
 - (b) By a practitioner, or by his or her authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or
 - (c) By a pharmacist as an incident to his or her dispensing of a controlled substance in the course of his or her professional practice;
- (28) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. The term "marijuana" does not include:

- (a) Industrial hemp that is in the possession, custody, or control of a person who holds a license issued by the Department of Agriculture permitting that person to cultivate, handle, or process industrial hemp;
 - (b) Industrial hemp products that do not include any living plants, viable seeds, leaf materials, or floral materials;
 - (c) The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine;
 - (d) For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;
 - (e) A cannabidiol product derived from industrial hemp, as defined in KRS 260.850;
 - (f) For the purpose of conducting scientific research, a cannabinoid product derived from industrial hemp, as defined in KRS 260.850;~~[-or]~~
 - (g) A cannabinoid product approved as a prescription medication by the United States Food and Drug Administration; *or*
 - (h) *Medicinal cannabis as defined in Section 1 of this Act;***
- (29) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only, means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background;
 - (30) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only, means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order;
 - (31) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only, means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship;
 - (32) "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;
 - (33) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
 - (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
 - (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
 - (c) Opium poppy and poppy straw;
 - (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
 - (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection;
 - (34) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.020, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;
 - (35) "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds;
 - (36) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

- (37) "Physical injury" has the same meaning it has in KRS 500.080;
- (38) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- (39) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;
- (40) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced practice registered nurse as authorized under KRS 314.011, physician assistant as authorized under KRS 311.858, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered nurse authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;
- (41) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal prosecution only, means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his or her designee has conducted at least one (1) good faith prior examination;
- (42) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced practice registered nurse, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
- (43) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;
- (44) "Presumptive probation" means a sentence of probation not to exceed the maximum term specified for the offense, subject to conditions otherwise authorized by law, that is presumed to be the appropriate sentence for certain offenses designated in this chapter, notwithstanding contrary provisions of KRS Chapter 533. That presumption shall only be overcome by a finding on the record by the sentencing court of substantial and compelling reasons why the defendant cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety;
- (45) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;
- (46) "Recovery program" means an evidence-based, nonclinical service that assists individuals and families working toward sustained recovery from substance use and other criminal risk factors. This can be done through an array of support programs and services that are delivered through residential and nonresidential means;
- (47) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation of that plant, its seeds, or extracts. The term shall not include any other species in the genus *salvia*;
- (48) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter;
- (49) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;
- (50) "Serious physical injury" has the same meaning it has in KRS 500.080;
- (51) "Synthetic cannabinoids or piperazines" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with

state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any compound in the following structural classes:

- (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;
- (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
- (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;
- (d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);
- (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;
- (f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
- (g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176;
- (h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-tetramethylcyclopropoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not further substituted in the tetramethylcyclopropyl ring to any extent. Examples of this structural class include but are not limited to UR-144 and XLR-11;
- (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent. Examples of this structural class include but are not limited to AB-001 and AM-1248; or

- (j) Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law;
- (52) "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law (not including bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:
- By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents. Examples of this class include but are not limited to 3,4-Methylenedioxycathinone (bk-MDA);
 - By substitution at the 3-position with an acyclic alkyl substituent. Examples of this class include but are not limited to 2-methylamino-1-phenylbutan-1-one (buphedrone);
 - By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure. Examples of this class include but are not limited to Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP); or
 - Any other synthetic cathinone which is not approved by the United States Food and Drug Administration or, if approved, is not dispensed or possessed in accordance with state or federal law;
- (53) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;
- (54) "Telehealth" has the same meaning it has in KRS ~~211.332~~~~[311.550]~~;
- (55) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
- Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
 - Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
 - Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
- (56) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance;
- (57) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and
- (58) "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

➔Section 35. KRS 218A.1421 is amended to read as follows:

- A person is guilty of trafficking in marijuana when he *or she* knowingly and unlawfully traffics in marijuana, ***and the trafficking is not in compliance with, or otherwise authorized by, Sections 1 to 30 of this Act.***
- Unless authorized by Sections 1 to 30 of this Act,*** trafficking in less than eight (8) ounces of marijuana is:
 - For a first offense a Class A misdemeanor.
 - For a second or subsequent offense a Class D felony.
- Unless authorized by Sections 1 to 30 of this Act,*** trafficking in eight (8) or more ounces but less than five (5) pounds of marijuana is:
 - For a first offense a Class D felony.
 - For a second or subsequent offense a Class C felony.
- Unless authorized by Sections 1 to 30 of this Act,*** trafficking in five (5) or more pounds of marijuana is:
 - For a first offense a Class C felony.

- (b) For a second or subsequent offense a Class B felony.
- (5) ***Unless authorized by Sections 1 to 30 of this Act***, the unlawful possession by any person of eight (8) or more ounces of marijuana shall be prima facie evidence that the person possessed the marijuana with the intent to sell or transfer it.
- (6) ***This section does not apply to:***
 - (a) ***A cannabis business or a cannabis business agent, as defined in Section 1 of this Act, when acting in compliance with Sections 1 to 30 of this Act; or***
 - (b) ***A cardholder, as defined in Section 1 of this Act, whose use of medicinal cannabis is in compliance with Sections 1 to 30 of this Act.***

➔Section 36. KRS 218A.1422 is amended to read as follows:

- (1) A person is guilty of possession of marijuana when he or she knowingly and unlawfully possesses marijuana, ***and the possession is not in compliance with, or otherwise authorized by, Sections 1 to 30 of this Act.***
- (2) Possession of marijuana is a Class B misdemeanor, except that, KRS Chapter 532 to the contrary notwithstanding, the maximum term of incarceration shall be no greater than forty-five (45) days.
- (3) ***This section does not apply to:***
 - (a) ***A cannabis business or a cannabis business agent, as defined in Section 1 of this Act, when acting in compliance with Sections 1 to 30 of this Act; or***
 - (b) ***A cardholder, as defined in Section 1 of this Act, whose use of medicinal cannabis is in compliance with Sections 1 to 30 of this Act.***

➔Section 37. KRS 218A.1423 is amended to read as follows:

- (1) A person is guilty of marijuana cultivation when he ***or she*** knowingly and unlawfully plants, cultivates, or harvests marijuana with the intent to sell or transfer it, ***and the cultivation is not in compliance with, or otherwise authorized by, Sections 1 to 30 of this Act.***
- (2) ***Unless authorized by Sections 1 to 30 of this Act***, marijuana cultivation of five (5) or more plants of marijuana is:
 - (a) For a first offense a Class D felony.
 - (b) For a second or subsequent offense a Class C felony.
- (3) ***Unless authorized by Sections 1 to 30 of this Act***, marijuana cultivation of fewer than five (5) plants is:
 - (a) For a first offense a Class A misdemeanor.
 - (b) For a second or subsequent offense a Class D felony.
- (4) ***Unless authorized by Sections 1 to 30 of this Act***, the planting, cultivating, or harvesting of five (5) or more marijuana plants shall be prima facie evidence that the marijuana plants were planted, cultivated, or harvested for the purpose of sale or transfer.
- (5) ***This section does not apply to a cannabis business or a cannabis business agent, as defined in Section 1 of this Act, when acting in compliance with Sections 1 to 30 of this Act.***

➔Section 38. KRS 218A.202 is amended to read as follows:

- (1) ***As used in this section:***
 - (a) ***"Cabinet" means the cabinet for Health and Family Services;***
 - (b) ***"Cannabis business" has the same meaning as in Section 1 of this Act;***
 - (c) ***"Controlled substance" means any Schedule II, III, IV, or V controlled substance and does not include medicinal cannabis;***
 - (d) ***"Dispensary" has the same meaning as in Section 1 of this Act;***
 - (e) ***"Dispensary agent" has the same meaning as in Section 1 of this Act;***
 - (f) ***"Disqualifying felony offense" has the same meaning as in Section 1 of this Act;***

- (g) *"Medicinal cannabis" has the same meaning as in Section 1 of this Act;*
 - (h) *"Medical cannabis practitioner" has the same meaning as in Section 1 of this Act;*
 - (i) *"Registry identification card" has the same meaning as in Section 1 of this Act;*
 - (j) *"State licensing board" has the same meaning as in Section 1 of this Act;*
 - (k) *"Use of medicinal cannabis" has the same meaning as in Section 1 of this Act; and*
 - (l) *"Written certification" has the same meaning as in Section 1 of this Act.*
- (2) The cabinet~~[for Health and Family Services]~~ shall establish and maintain an electronic system for monitoring Schedules II, III, IV, and V controlled substances *and medicinal cannabis*. The cabinet may contract for the design, upgrade, or operation of this system if the contract preserves all of the rights, privileges, and protections guaranteed to Kentucky citizens under this chapter and the contract requires that all other aspects of the system be operated in conformity with the requirements of this or any other applicable state or federal law.
- (3)~~[(2)]~~ *For the purpose of monitoring the prescribing and dispensing of Schedule II, III, IV, or V controlled substances:*
- (a) A practitioner or a pharmacist authorized to prescribe or dispense controlled substances to humans shall register with the cabinet to use the system provided for in this section and shall maintain such registration continuously during the practitioner's or pharmacist's term of licensure and shall not have to pay a fee or tax specifically dedicated to the operation of the system;~~[-]~~
 - (b)~~[(3)]~~ Every practitioner or pharmacy which dispenses a controlled substance to a person in Kentucky, or to a person at an address in Kentucky, shall report to the cabinet ~~[for Health and Family Services]~~ the data required by this section, which includes the reporting of any Schedule II controlled substance dispensed at a facility licensed by the cabinet and a Schedule II through Schedule V controlled substance regardless of dosage when dispensed by the emergency department of a hospital to an emergency department patient. Reporting shall not be required for:
 - 1.~~[(a)]~~ A drug administered directly to a patient in a hospital, a resident of a health care facility licensed under KRS Chapter 216B, a resident of a child-caring facility as defined by KRS 199.011, or an individual in a jail, correctional facility, or juvenile detention facility;
 - 2.~~[(b)]~~ A Schedule III through Schedule V controlled substance dispensed by a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours and is not dispensed by the emergency department of a hospital; or
 - 3.~~[(c)]~~ A drug administered or dispensed to a research subject enrolled in a research protocol approved by an institutional review board that has an active federalwide assurance number from the United States Department of Health and Human Services, Office for Human Research Protections, where the research involves single, double, or triple blind drug administration or is additionally covered by a certificate of confidentiality from the National Institutes of Health;~~[-]~~
 - (c)~~[(4)]~~ In addition to the data required by *paragraph (d) of this* subsection ~~[(5) of this section]~~, a Kentucky-licensed acute care hospital or critical access hospital shall report to the cabinet all positive toxicology screens that were performed by the hospital's emergency department to evaluate the patient's suspected drug overdose;~~[-]~~
 - (d)~~[(5)]~~ Data for each controlled substance that is reported shall include but not be limited to the following:
 - 1.~~[(a)]~~ Patient identifier;
 - 2.~~[(b)]~~ National drug code of the drug dispensed;
 - 3.~~[(c)]~~ Date of dispensing;
 - 4.~~[(d)]~~ Quantity dispensed;
 - 5.~~[(e)]~~ Prescriber; and
 - 6.~~[(f)]~~ Dispenser;~~[-]~~

- ~~(e)(6)~~ The data shall be provided in the electronic format specified by the cabinet ~~for Health and Family Services~~ unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates;~~;~~
- ~~(f)(7)~~ The cabinet ~~for Health and Family Services~~ shall only disclose data to persons and entities authorized to receive that data under this **subsection**~~section~~. Disclosure to any other person or entity, including disclosure in the context of a civil action where the disclosure is sought either for the purpose of discovery or for evidence, is prohibited unless specifically authorized by this section. The cabinet ~~for Health and Family Services~~ shall be authorized to provide data to:
- ~~1.(a)~~ A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;
 - ~~2.(b)~~ Employees of the Office of the Inspector General of the cabinet ~~for Health and Family Services~~ who have successfully completed training for the electronic system and who have been approved to use the system, federal prosecutors, Kentucky Commonwealth's attorneys and assistant Commonwealth's attorneys, county attorneys and assistant county attorneys, a peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal agent whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;
 - ~~3.(c)~~ A state-operated Medicaid program in conformity with **paragraph (g) of this subsection**~~(8) of this section~~;
 - ~~4.(d)~~ A properly convened grand jury pursuant to a subpoena properly issued for the records;
 - ~~5.(e)~~ A practitioner or pharmacist, or employee of the practitioner's or pharmacist's practice acting under the specific direction of the practitioner or pharmacist, who certifies that the requested information is for the purpose of:
 - ~~a(1)~~. Providing medical or pharmaceutical treatment to a bona fide current or prospective patient;
 - ~~b(2)~~. Reviewing data on controlled substances that have been reported for the birth mother of an infant who is currently being treated by the practitioner for neonatal abstinence syndrome, or has symptoms that suggest prenatal drug exposure; or
 - ~~c(3)~~. Reviewing and assessing the individual prescribing or dispensing patterns of the practitioner or pharmacist or to determine the accuracy and completeness of information contained in the monitoring system;
 - ~~6.(f)~~ The chief medical officer of a hospital or long-term-care facility, an employee of the hospital or long-term-care facility as designated by the chief medical officer and who is working under his or her specific direction, or a physician designee if the hospital or facility has no chief medical officer, if the officer, employee, or designee certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current or prospective patient or resident in the hospital or facility;
 - ~~7.(g)~~ In addition to the purposes authorized under **subparagraph 1. of this paragraph**~~(a) of this subsection~~, the Kentucky Board of Medical Licensure, for any physician who is:
 - ~~a(1)~~. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing or dispensing practices;
 - ~~b(2)~~. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or
 - ~~c(3)~~. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;

8. ~~(h)~~ In addition to the purposes authorized under *subparagraph 1. of this* paragraph ~~(a) of this subsection~~, the Kentucky Board of Nursing, for any advanced practice registered nurse who is:
- a~~1~~. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing or dispensing practices;
 - b~~2~~. Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper prescribing practices;
 - c~~3~~. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or
 - d~~4~~. In a designated geographic area for which a report on a physician or another advanced practice registered nurse in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;
9. ~~(i)~~ A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program; or
10. ~~(j)~~ A medical examiner engaged in a death investigation pursuant to KRS 72.026; ~~;~~
- (g) ~~(8)~~ The Department for Medicaid Services shall use any data or reports from the system for the purpose of identifying Medicaid providers or recipients whose prescribing, dispensing, or usage of controlled substances may be:
1. ~~(a)~~ Appropriately managed by a single outpatient pharmacy or primary care physician; or
 2. ~~(b)~~ Indicative of improper, inappropriate, or illegal prescribing or dispensing practices by a practitioner or drug seeking by a Medicaid recipient; ~~;~~
- (h) ~~(9)~~ A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except as provided in this *subsection* ~~section~~, in another statute, or by order of a court of competent jurisdiction and only to a person or entity authorized to receive the data or the report under this section, except that:
1. ~~(a)~~ A person specified in *paragraph (f)2. of this* subsection ~~(7)(b) of this section~~ who is authorized to receive data or a report may share that information with any other persons specified in *paragraph (f)2. of this* subsection ~~(7)(b) of this section~~ authorized to receive data or a report if the persons specified in *paragraph (f)2. of this* subsection ~~(7)(b) of this section~~ are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this *subparagraph* ~~paragraph~~ shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each agency engaged in the investigation;
 2. ~~(b)~~ A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in *paragraph (f)1. of this* subsection ~~((7)(a) of this section)~~, or with a law enforcement officer designated in *paragraph (f)2. of this* subsection ~~(7)(b) of this section~~;
 3. ~~(c)~~ The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B;
 4. ~~(d)~~ If a state licensing board as defined in KRS 218A.205 initiates formal disciplinary proceedings against a licensee, and data obtained by the board is relevant to the charges, the board may provide the data to the licensee and his or her counsel, as part of the notice process required by KRS 13B.050, and admit the data as evidence in an administrative hearing conducted pursuant to KRS Chapter 13B, with the board and licensee taking all necessary steps to prevent further disclosure of the data; and
 5. ~~(e)~~ A practitioner, pharmacist, or employee who obtains data under *paragraph (f)5. of this* subsection ~~((7)(e) of this section)~~ may share the report with the patient or person authorized to

act on the patient's behalf. Any practitioner, pharmacist, or employee who obtains data under *paragraph (f)5. of this subsection*~~[(7)(e) of this section]~~ may place the report in the patient's medical record, in which case the individual report shall then be deemed a medical record subject to disclosure on the same terms and conditions as an ordinary medical record in lieu of the disclosure restrictions otherwise imposed by this section;~~[-]~~

- (i)~~[(10)]~~ The cabinet~~[for Health and Family Services]~~, all peace officers specified in *paragraph (f)2. of this subsection*~~[(7)(b) of this section]~~, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated;~~[-]~~
- (j)~~[(11)]~~ — The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.
- (~~12~~) Intentional failure to comply with the reporting requirements of this *subsection*~~[section]~~ shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense; ~~and~~~~[-]~~
- (k) *If the cabinet becomes aware of a prescriber's or dispenser's failure to comply with this section, the cabinet shall notify the licensing board or agency responsible for licensing the prescriber or dispenser. The licensing board shall treat the notification as a complaint against the license.*
- (4) *For the purpose of monitoring the cultivation, processing, production, recommending, and dispensing of medical cannabis:*
- (a) *Every medicinal cannabis practitioner who is authorized, pursuant to Section 9 of this Act, to provide written certifications for the use of medicinal cannabis and every cannabis business licensed under Sections 15, 16, and 17 of this Act shall register with the cabinet to use the system provided for in this section and shall maintain such registration continuously during the medicinal practitioner's authorization to provide written certifications or a cannabis business's term of licensure and shall not have to pay a fee or tax specifically dedicated to the operation of the system;*
- (b) *No later than July 1, 2024, the cabinet shall ensure that the system provided for in this section allows:*
1. *Medicinal cannabis practitioners to record the issuance of written certifications to a patient as required by Section 9 of this Act;*
 2. *The cabinet, law enforcement personnel, and dispensary agents to verify the validity of registry identification cards issued by the cabinet. When verifying the validity of an identification card, the system shall only disclose whether the identification card is valid and whether the cardholder is a registered qualified patient, visiting qualified patient, or designated caregiver;*
 3. *Dispensary agents to record the amount of medicinal cannabis that is dispensed to a cardholder during each transaction, as required by Section 21 of this Act;*
 4. *Law enforcement personnel and dispensary agents to access medicinal cannabis sales data recorded by dispensary agents pursuant to Section 21 of this Act;*
 5. *The sharing of dispensing data recorded by dispensary agents, pursuant to Section 21 of this Act, with all licensed dispensaries in real time;*
 6. *Licensed cannabis businesses to record data required by administrative regulations promulgated pursuant to with Section 27 of this Act to facilitate the tracking of medicinal cannabis from the point of cultivation to the point of sale to cardholders; and*
 7. *The cabinet to track all medicinal cannabis in the state from the point of cultivation to the point of sale to a cardholder;*
- (c) *The cabinet shall only disclose data related to the cultivation, production, recommending, and dispensing of medical cannabis to persons and entities authorized to receive that data under this subsection. Disclosure to any other person or entity, including disclosure in the context of a civil action where the disclosure is sought either for the purpose of discovery or for evidence, is prohibited unless specifically authorized by this subsection. The cabinet shall be authorized to provide data to:*
1. *Any person or entity authorized to receive data pursuant to paragraph (b) of this subsection;*

2. *A designated representative of a state licensing board responsible for the licensure, regulation, or discipline of medicinal cannabis practitioners and who is involved in a bona fide specific investigation involving a designated person;*
3. *Employees of the Office of the Inspector General of the cabinet who have successfully completed training for the electronic system and who have been approved to use the system, Kentucky Commonwealth's attorneys and assistant Commonwealth's attorneys, and county attorneys and assistant county attorneys who are engaged in a bona fide specific investigation involving a designated person;*
4. *A properly convened grand jury pursuant to a subpoena properly issued for the records;*
5. *A medicinal cannabis practitioner or an employee of a medicinal cannabis practitioner's practice acting under the specific direction of the medicinal cannabis practitioner, who certifies that the request for information is for the purpose of complying with subsection (4)(c) of Section 9 of this Act;*
6. *The chief medical officer of a hospital or long-term-care facility, an employee of the hospital or long-term-care facility as designated by the chief medical officer and who is working under his or her specific direction, or a physician designee if the hospital or facility has no chief medical officer, if the officer, employee, or designee certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current or prospective patient or resident in the hospital or facility;*
7. *In addition to the purposes authorized under subparagraph 2. of this paragraph, the Kentucky Board of Medical Licensure, for any physician who is:*
 - a. *Associated in a partnership, other business entity, or supervision agreement established pursuant to KRS 311.854 with a physician who is already under investigation by the Board of Medical Licensure for improper issuance of written certifications;*
 - b. *Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper issuance of written certifications;*
 - c. *In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate issuance of written certifications may be occurring; or*
 - d. *In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate issuance of written certifications may be occurring in that area;*
8. *In addition to the purposes authorized under subparagraph 2. of this paragraph, the Kentucky Board of Nursing, for any advanced practice registered nurse who is:*
 - a. *Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper issuance of written certifications;*
 - b. *Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper issuance of written certifications;*
 - c. *In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate issuance of written certifications may be occurring; or*
 - d. *In a designated geographic area for which a report on another advanced practice registered nurse in that area indicates a substantial likelihood that inappropriate issuance of written certifications may be occurring in that area;*
9. *A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program;*
10. *A medical examiner engaged in a death investigation pursuant to KRS 72.026; or*

11. *The Legislative Research Commission, the University of Kentucky College of Medicine, or the Kentucky Center for Cannabis established in KRS 164.983 if the cabinet determines that disclosing data related to the cultivation, production, recommending, and dispensing of medical cannabis to the Legislative Research Commission, the University of Kentucky College of Medicine, or the Kentucky Center for Cannabis is necessary to comply with the reporting requirements established in subsection (8) of Section 3 of this Act; and*
- (d) *A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except as provided in this section, in another statute, or by order of a court of competent jurisdiction and only to a person or entity authorized to receive the data or the report under this section, except that:*
1. *A person specified in paragraph (c)3. of this subsection who is authorized to receive data or a report may share that information with any other persons specified in paragraph (c)3. of this subsection authorized to receive data or a report if the persons specified in paragraph (c)3. of this subsection are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this subparagraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each agency engaged in the investigation;*
 2. *If a state licensing board initiates formal disciplinary proceedings against a licensee, and data obtained by the board is relevant to the charges, the board may provide the data to the licensee and his or her counsel, as part of the notice process required by KRS 13B.050, and admit the data as evidence in an administrative hearing conducted pursuant to KRS Chapter 13B, with the board and licensee taking all necessary steps to prevent further disclosure of the data; and*
 3. *A medicinal cannabis practitioner or an employee of a medicinal cannabis practitioner's practice acting under the specific direction of the medicinal cannabis practitioner who obtains data under paragraph (c)5. of this subsection may share the report with the patient or person authorized to act on the patient's behalf. Any medicinal cannabis practitioner or employee who obtains data under paragraph (c)5. of this subsection may place the report in the patient's medical record, in which case the individual report shall then be deemed a medical record subject to disclosure on the same terms and conditions as an ordinary medical record in lieu of the disclosure restrictions otherwise imposed by this section.*
- (5) *The data contained in, and any report obtained from, the electronic system for monitoring established pursuant to this section shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.*
- ~~(6) [(13)]~~ Intentional disclosure of transmitted data to a person not authorized by *subsection (3)(f) to (h) or subsection (4)(c) and (d) [subsections (7) to (9)]* of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide current or prospective patient or a bona fide specific investigation, shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.
- ~~(7) [(14)]~~ The cabinet~~[for Health and Family Services]~~ may, by promulgating an administrative regulation, limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.
- ~~(8) [(15)]~~
- (a) The Cabinet for Health and Family Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.
 - (b) *The cabinet shall work with each board responsible for the licensure, regulation, or discipline of medicinal cannabis practitioners for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.*
 - (c) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.

~~(d)(e)~~ The cabinet shall work with the Justice and Public Safety Cabinet for the development of a continuing education program for law enforcement officers about the purposes and uses of the electronic system for monitoring established in this section.

(e) The cabinet shall develop a training program for cannabis business agents about the purposes and uses of the electronic system for monitoring established in this section.

~~[(16) If the cabinet becomes aware of a prescriber's or dispenser's failure to comply with this section, the cabinet shall notify the licensing board or agency responsible for licensing the prescriber or dispenser. The licensing board shall treat the notification as a complaint against the licensee.]~~

~~(9)(17)~~ The cabinet ~~for Health and Family Services~~, Office of Inspector General, shall conduct quarterly reviews to identify patterns of potential improper, inappropriate, or illegal prescribing or dispensing of a controlled substance, **issuance of written certifications, or cultivation, processing, or dispensing of medicinal cannabis**. The Office of Inspector General may independently investigate and submit findings and recommendations to the appropriate boards of licensure or other reporting agencies.

~~(10)(18)~~ The cabinet shall promulgate administrative regulations to implement the provisions of this section. Included in these administrative regulations shall be:

- (a) An error resolution process allowing a patient to whom a report had been disclosed under **subsections (3) and (4)**~~subsection (9)~~ of this section to request the correction of inaccurate information contained in the system relating to that patient; and
- (b) A requirement that data be reported to the system under subsection (3)**(b)** of this section within one (1) day of dispensing.

~~(11)(19)~~ **(a)** Before July 1, 2018, the Administrative Office of the Courts shall forward data regarding any felony or Class A misdemeanor conviction that involves the trafficking or possession of a controlled substance or other prohibited acts under KRS Chapter 218A for the previous five (5) calendar years to the cabinet for inclusion in the electronic monitoring system established under this section. On or after July 1, 2018, such data shall be forwarded by the Administrative Office of the Courts to the cabinet on a continuing basis. The cabinet shall incorporate the data received into the system so that a query by patient name indicates any prior drug conviction.

(b) Before July 1, 2024, the Administrative Office of the Courts shall forward data regarding any disqualifying felony offense for the previous five (5) calendar years to the cabinet for inclusion in the electronic monitoring system established under this section. On or after July 1, 2024, such data shall be forwarded by the Administrative Office of the Courts to the cabinet on a continuing basis. The cabinet shall incorporate the data received in to the system so that a query by patient name indicates any prior disqualifying felony conviction.

➔Section 39. KRS 218A.500 is amended to read as follows:

As used in this section and KRS 218A.510:

- (1) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. **The term "drug paraphernalia" does not include medicinal cannabis accessories as defined in Section 1 of this Act.** It includes but is not limited to:
 - (a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
 - (b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
 - (c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
 - (d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

- (e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;
 - (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
 - (g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
 - (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;
 - (i) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
 - (j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
 - (k) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body; and
 - (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips which mean objects used to hold burning material, such as marijuana cigarettes, that have become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers.
- (2) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.
- (3) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.
- (4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
- (5) (a) This section shall not prohibit a local health department from operating a substance abuse treatment outreach program which allows participants to exchange hypodermic needles and syringes.
- (b) To operate a substance abuse treatment outreach program under this subsection, the local health department shall have the consent, which may be revoked at any time, of the local board of health and:
1. The legislative body of the first or home rule class city in which the program would operate if located in such a city; and
 2. The legislative body of the county, urban-county government, or consolidated local government in which the program would operate.
- (c) Items exchanged at the program shall not be deemed drug paraphernalia under this section while located at the program.
- (6) (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace officer may inquire as to the presence of needles or other sharp objects in the areas to be searched that may cut or puncture the officer and offer to not charge a person with possession of drug paraphernalia if the person declares to the officer the presence of the needle or other sharp object. If, in response to the offer, the person admits to the presence of the needle or other sharp object prior to the search, the person shall not be charged

with or prosecuted for possession of drug paraphernalia for the needle or sharp object or for possession of a controlled substance for residual or trace drug amounts present on the needle or sharp object.

- (b) The exemption under this subsection shall not apply to any other drug paraphernalia that may be present and found during the search or to controlled substances present in other than residual or trace amounts.
- (7) (a) This section shall not prohibit the retail sale of hypodermic syringes and needles without a prescription in pharmacies.
- (b) Hypodermic syringe and needle inventory of a pharmacy shall not be deemed drug paraphernalia under this section.
- (8) Any person who violates any provision of this section shall be guilty of a Class A misdemeanor.

➔Section 40. KRS 260.850 is amended to read as follows:

As used in KRS 260.850 to 260.869:

- (1) "Commissioner" means the Commissioner of the Kentucky Department of Agriculture;
- (2) "Cultivating" means planting, growing, and harvesting a plant or crop;
- (3) "Department" means the Kentucky Department of Agriculture;
- (4) "Handling" means possessing or storing hemp for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process hemp. "Handling" also includes possessing or storing hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process hemp to the premises of another licensed person;
- (5) "Hemp" or "industrial hemp":
 - (a) Means the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis; **and**
 - (b) ***Does not include medicinal cannabis as defined in Section 1 of this Act;***
- (6) "Hemp products" or "industrial hemp products":
 - (a) Means products derived from, or made by, processing hemp plants or plant parts; **and**
 - (b) ***Does not include medicinal cannabis products as defined in Section 1 of this Act;***
- (7) "Licensee" means an individual or business entity possessing a license issued by the department under the authority of this chapter to grow, handle, cultivate, process, or market hemp or hemp products;
- (8) "Marketing" means promoting or selling a product within the Commonwealth, in another state, or outside of the United States. "Marketing" includes efforts to advertise and gather information about the needs or preferences of potential consumers or suppliers;
- (9) "Processing" means converting an agricultural commodity into a marketable form; and
- (10) "University" means an accredited institution of higher education located in the Commonwealth.

➔Section 41. KRS 342.815 is amended to read as follows:

- (1) The authority may provide coverage for insurance, authorized in KRS 342.803, to any employer in the Commonwealth, and who tenders the required premium for coverage and comply with other conditions and qualifications for obtaining and maintaining coverage adopted by the authority to protect and ensure its actuarial soundness and solvency.
- (2) The authority shall provide coverage to any employer who is unable to secure coverage in the voluntary market unless:
 - (a) The employer owes undisputed premiums to a previous workers' compensation carrier or to a workers' compensation residual market mechanism; **or**
 - (b) ***Providing coverage to the employer would subject the authority or its employees to a violation of federal or state law.***

➔Section 42. Section 2, Sections 4 to 8, Section 10, Sections 12 to 14, Sections 17 to 24, Section 30, Section 32, and Sections 35 to 37 of this Act take effect January 1, 2025.

Signed by Governor March 31, 2023.

CHAPTER 147

(HB 551)

AN ACT relating to wagering and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *There is hereby established in the State Treasury a restricted account to be known as the sports wagering administration fund. The fund shall consist of moneys received from the moneys collected under Sections 10, 11, and 14 of this Act and state appropriations.*
- (b) 1. *The amounts deposited in the fund shall be used as follows:*
- a. *For administrative expenses relating to or associated with the purposes of sports wagering which shall be disbursed by the Finance and Administration Cabinet upon the warrant of the Public Protection Cabinet; and*
 - b. *Two and one-half percent (2.5%) of the funds shall be deposited in the Kentucky problem gambling assistance account established in Section 2 of this Act.*
2. *The remaining funds shall be deposited in the Kentucky permanent pension fund established in KRS 42.205.*
3. *Any interest accruing to the fund shall become a part of the fund and shall not lapse.*
- (2) *Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.*
- (3) *Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

- (1) (a) *There is established in the State Treasury a revolving account to be known as the Kentucky problem gambling assistance account.*
- (b) *The account shall be administered by the director of the Division of Behavioral Health of the Department for Behavioral Health, Developmental and Intellectual Disabilities, and shall consist of moneys distributed to it under Section 1 of this Act.*
- (c) *Notwithstanding KRS 45.229, moneys remaining in the account at the close of a fiscal year shall not lapse but shall carry forward into the succeeding fiscal year. Interest earned on any moneys in the account shall accrue to the account.*
- (d) *Except for administrative expenses of the Division of Behavioral Health relating to the account, which shall be limited to fifty thousand dollars (\$50,000) per fiscal year, all moneys in the account are appropriated for, and shall be used exclusively for, the purposes of:*
1. *Providing support to agencies, groups, organizations, and persons that provide education, assistance, and counseling to persons and families experiencing difficulty as a result of addiction to alcohol or drugs, or addictive or compulsive gambling;*
 2. *Promoting public awareness of, and providing education about, addictions;*
 3. *Establishing and funding programs to certify addiction counselors;*
 4. *Promoting public awareness of assistance programs for addicts; and*

5. *Paying the costs and expenses associated with the treatment of addictions.*
- (2) *The Cabinet for Health and Family Services shall promulgate administrative regulations to establish criteria for the expenditure of funds from the Kentucky problem gambling assistance account. The administrative regulations shall:*
- (a) *Establish standards for the types of agencies, groups, organizations, and persons eligible to receive funding;*
 - (b) *Establish standards for the types of activities eligible for funding;*
 - (c) *Establish standards for the appropriate documentation of past performance and the activities of agencies, groups, organizations, and persons requesting funding;*
 - (d) *Establish standards for the development of performance measures or other evidence of successful expenditure of awarded funds;*
 - (e) *Set forth procedures for the submission, evaluation, and review of applications for funding;*
 - (f) *Set forth procedures for making funding awards to requesting entities who have demonstrated the capability to efficiently and effectively provide the necessary services;*
 - (g) *Establish requirements and procedures for the monitoring of funds awarded, including requirements for the submission of reports and documentation supporting expenditures; and*
 - (h) *Include any other provisions related to funding or the administration of the account as determined by the cabinet.*
- (3) *On or before October 1, 2024, and every October 1 thereafter, the director of the Division of Behavioral Health, in cooperation with the commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities and the secretary of the Cabinet for Health and Family Services, shall submit an annual report detailing activities and expenditures associated with the Kentucky problem gambling assistance account for the preceding fiscal year. The annual report shall be submitted to:*
- (a) *The Legislative Research Commission; and*
 - (b) *The Governor.*

➔Section 3. KRS 230.210 is amended to read as follows:

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

- (1) "Advance deposit account wagering" means a form of pari-mutuel wagering in which an individual may establish an account with a person or entity licensed by the racing commission, and may place a pari-mutuel wager through that account that is permitted by law;
- (2) "Advance deposit account wagering licensee" means a person or entity licensed by the racing commission to conduct advance deposit account wagering and accept deposits and wagers, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts;
- (3) *"Amateur youth sporting event" means any sporting event in which an individual:*
 - (a) *Shall be less than eighteen (18) years of age to participate; and*
 - (b) *Is prohibited, as a condition of participating in the sporting event, from receiving direct or indirect compensation for the use of the individual's athletic skill in any manner with respect to the sport in which the particular sporting event is conducted;*
- (4)~~(3)~~ "Appaloosa race" or "Appaloosa racing" means that form of horse racing in which each horse participating in the race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey;
- (5)~~(4)~~ "Arabian" means a horse that is registered with the Arabian Horse Registry of Denver, Colorado;
- (6)~~(5)~~ "Association" means any person licensed by the Kentucky Horse Racing Commission under KRS 230.300 and engaged in the conduct of a recognized horse race meeting;
- (7) *"Geofence" means a virtual geographic boundary defined by Global Positioning System (GPS) or Radio Frequency Identification (RFID) technology;*

- (8)~~(6)~~ "Harness race" or "harness racing" means trotting and pacing races of the standardbred horses;
- (9)~~(7)~~ "Horse race meeting" means horse racing run at an association licensed and regulated by the Kentucky Horse Racing Commission, and may include Thoroughbred, harness, Appaloosa, Arabian, paint, and quarter horse racing;
- (10)~~(8)~~ "Host track" means the track conducting racing and offering its racing for intertrack wagering, or, in the case of interstate wagering, means the Kentucky track conducting racing and offering simulcasts of races conducted in other states or foreign countries;
- (11)~~(9)~~ "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track;
- (12)~~(10)~~ "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a track located in another state or foreign country by patrons at a receiving track or simulcast facility;
- (13)~~(11)~~ "Kentucky quarter horse, paint horse, Appaloosa, and Arabian purse fund" means a purse fund established to receive funds as specified in KRS 230.3771 for purse programs established in KRS 230.446 to supplement purses for quarter horse, paint horse, Appaloosa, and Arabian horse races. The purse program shall be administered by the Kentucky Horse Racing Commission;
- (14)~~(12)~~ "Kentucky resident" means:
- (a) An individual domiciled within this state;
 - (b) An individual who maintains a place of abode in this state and spends, in the aggregate, more than one hundred eighty-three (183) days of the calendar year in this state; or
 - (c) An individual who lists a Kentucky address as his or her principal place of residence when applying for an account to participate in advance deposit account wagering;
- (15) ***"Licensed facility for sports wagering" means the designated areas to conduct sports wagering for a track licensed to conduct sports wagering pursuant to Section 10 of this Act;***
- (16)~~(13)~~ "Licensed premises" means a track or simulcast facility licensed by the racing commission under this chapter;
- (17)~~(14)~~ "Paint horse" means a horse registered with the American Paint Horse Association of Fort Worth, Texas;
- (18)~~(15)~~ "Pari-mutuel wagering," "pari-mutuel system of wagering," or "mutuel wagering" each means any method of wagering previously or hereafter approved by the racing commission in which one (1) or more patrons wager on a horse race or races, whether live, simulcast, or previously run. Wagers shall be placed in one (1) or more wagering pools, and wagers on different races or sets of races may be pooled together. Patrons may establish odds or payouts, and winning patrons share in amounts wagered including any carryover amounts, plus any amounts provided by an association less any deductions required, as approved by the racing commission and permitted by law. Pools may be paid out incrementally over time as approved by the racing commission;
- (19) ***"Person" means an individual, sole proprietorship, partnership, association, fiduciary, corporation, limited liability company, or any other business entity;***
- (20)~~(16)~~ "Principal" means any of the following individuals associated with a partnership, trust, association, limited liability company, or corporation that is licensed to conduct a horse race meeting or an applicant for a license to conduct a horse race meeting:
- (a) The chairman and all members of the board of directors of a corporation;
 - (b) All partners of a partnership and all participating members of a limited liability company;
 - (c) All trustees and trust beneficiaries of an association;
 - (d) The president or chief executive officer and all other officers, managers, and employees who have policy-making or fiduciary responsibility within the organization;
 - (e) All stockholders or other individuals who own, hold, or control, either directly or indirectly, five percent (5%) or more of stock or financial interest in the collective organization; and

- (f) Any other employee, agent, guardian, personal representative, or lender or holder of indebtedness who has the power to exercise a significant influence over the applicant's or licensee's operation;
- (21)~~(17)~~ "Quarter horse" means a horse that is registered with the American Quarter Horse Association of Amarillo, Texas;
- (22)~~(18)~~ "Racing commission" means the Kentucky Horse Racing Commission;
- (23)~~(19)~~ "Receiving track" means a track where simulcasts are displayed for wagering purposes. A track that submits an application for intertrack wagering shall meet all the regulatory criteria for granting an association license of the same breed as the host track, and shall have a heated and air-conditioned facility that meets all state and local life safety code requirements and seats a number of patrons at least equal to the average daily attendance for intertrack wagering on the requested breed in the county in which the track is located during the immediately preceding calendar year;
- (24)~~(20)~~ "Simulcast facility" means any facility approved pursuant to the provisions of KRS 230.380 to simulcast live racing and conduct pari-mutuel wagering on live racing;
- (25)~~(21)~~ "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering;
- (26) *"Sporting event" means an event at which two (2) or more persons participate in athletic contests, or an event that takes place in relation to athletic contests as approved by the racing commission but shall not include horse racing or amateur youth sports or athletic events in which the majority of participants are under the age of eighteen (18);*
- (27) *"Sports governing body" means the organization, league, or association that oversees a sport, prescribes final rules, and enforces codes of conduct with respect to such sport and participants therein;*
- (28) *"Sports wagering" means the wagering conducted under this chapter on sporting events or portions of sporting events, or on the individual performance statistics of athletes in a sporting event or combination of sporting events in conformance with federal law and as authorized by the racing commission pursuant to this chapter;*
- (29) *"Sports wagering device" means a mechanical, electrical, or computerized contrivance, terminal, device, apparatus, software, piece of equipment, or supply approved by the racing commission for conducting sports wagering under this chapter. This term includes a personal computer, mobile device, or other device used in connection with sports wagering not conducted at a licensed facility for sports wagering;*
- (30) *"Sports wagering service provider" or "service provider" means a person authorized to conduct or manage sports wagering through an agreement with a track and provide these services at a licensed facility for sports wagering, simulcast facility, or through a website or mobile interface approved by the racing commission;*
- (31)~~(22)~~ "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by direct telephone call or by communication through other electronic media owned by the holder of the account to the track;
- (32)~~(23)~~ "Thoroughbred race" or "Thoroughbred racing" means a form of horse racing in which each horse participating in the race is a Thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey; and
- (33)~~(24)~~ "Track" means any association duly licensed by the Kentucky Horse Racing Commission to conduct horse racing and shall include:
- (a) For facilities in operation as of 2010, the location and physical plant described in the "Commonwealth of Kentucky Initial/Renewal Application for License to Conduct Live Horse Racing, Simulcasting, and Pari-Mutuel Wagering," filed for racing to be conducted in 2010;
 - (b) Real property of an association, if the association received or receives approval from the racing commission after 2010 for a location at which live racing is to be conducted; or
 - (c) One (1) facility or real property that is:
 1. Owned, leased, or purchased by an association within a sixty (60) mile radius of the association's racetrack but not contiguous to racetrack premises, upon racing commission approval; and

2. Not within a sixty (60) mile radius of another licensed track premise where live racing is conducted and not within a forty (40) mile radius of a simulcast facility, unless any affected track or simulcast facility agrees in writing to permit a noncontiguous facility within the protected geographic area.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

- (1) *The racing commission shall institute a system of sports wagering in conformance with federal law, this chapter, and by administrative regulations promulgated under the authority of Section 6 of this Act.*
- (2) *Sports wagering shall not be offered in this state except as authorized by this section and Section 10 of this Act. A track that holds a license to operate sports wagering may contract with sports wagering service providers to conduct or manage sports wagering operations as authorized by this chapter. Sports wagering may be provided at a licensed facility for sports wagering or online through a website or mobile application. The licensed facility for sports wagering or a sports wagering service provider may provide sports wagering through a website or mobile interface as approved by the racing commission. The racing commission may provide temporary licenses to licensed facilities for sports wagering or sports wagering service providers, if the commission deems that the information submitted by them is sufficient to determine the applicant's suitability. The racing commission shall promulgate administrative regulations to establish the suitability for temporary and ordinary license applications for licensed facilities for sports wagering, sports wagering service providers, and any related parties.*
- (3) *Sports wagering licensees and service providers that accept wagers online via websites and mobile applications shall impose the following requirements:*
 - (a) *Prior to placing a wager online via websites or mobile applications operated by either a sports wagering licensee or a service provider, a patron shall register the patron's sports wagering account with the operating sports wagering licensee or service provider either in person at a licensed facility for sports wagering or remotely through the service provider's website or mobile application;*
 - (b) *1. The registration process shall include attestation that the patron meets the requirements to place a wager with a sports wagering licensee or service provider in this state.*
2. Prior to verification of a patron's identity, a sports wagering licensee or service provider shall not allow the patron to engage in sports wagering, make a deposit, or process a withdrawal via the patron's sports wagering account.
3. A sports wagering licensee or service provider shall implement commercially and technologically reasonable procedures to prevent access to sports wagering by any person under the age of eighteen (18):
 - a. *At a licensed facility; and*
 - b. *Online via website or mobile application.*
 - 4. A sports wagering licensee or service provider may use information obtained from third parties to verify that a person is authorized to open an account, place wagers, and make deposits and withdrawals;*
- (c) *A sports wagering licensee or service provider shall adopt an account registration policy to ensure that all patrons are authorized to place a wager with a sports wagering licensee or service provider within the Commonwealth of Kentucky. This policy shall include, without limitation, a mechanism by which to:*
 1. *Verify the name and age of the patron;*
 2. *Verify that the patron is not prohibited from placing a wager; and*
 3. *Obtain the following information:*
 - a. *A physical address other than a post office box;*
 - b. *A phone number;*
 - c. *A unique user name; and*
 - d. *An e-mail account;*

- (d) *A sports wagering licensee or service provider shall use all commercially and technologically reasonable means to ensure that each patron is limited to one (1) account with that service provider in the Commonwealth, but nothing in this paragraph restricts a patron from holding other sports wagering accounts in other jurisdictions;*
 - (e) *A sports wagering licensee or service provider, in addition to complying with state and federal law pertaining to the protection of the private, personal information of patrons, shall use all other commercially and technologically reasonable means to protect this information consistent with industry standards;*
 - (f) *A sports wagering licensee or service provider shall use all commercially and technologically reasonable means to verify the identity of the patron making a deposit or withdrawal;*
 - (g) *A sports wagering licensee or service provider shall utilize geolocation or geofencing technology to ensure that wagers are only accepted from patrons who are physically located in the Commonwealth. A sports wagering licensee or service provider shall maintain in this state its servers used to transmit information for purposes of accepting or paying out wagers on a sporting event placed by patrons in this state;*
 - (h) *A patron may fund the patron's account using any acceptable form of payment or advance deposit method, which shall include the use of cash, cash equivalents, credit cards, debit cards, automated clearing house, other electronic methods, and any other form of payment authorized by the racing commission; and*
 - (i) *The racing commission may enter into agreements with other jurisdictions or entities to facilitate, administer, and regulate multi-jurisdictional sports betting by sports betting operators to the extent that entering into the agreement is consistent with state and federal laws and the sports betting agreement is conducted only in the United States.*
- (4) *A track may contract with no more than three (3) service providers at a time to conduct and manage services and technology which support the operation of sports betting both on the track and online via websites and mobile applications. The website or mobile application used to offer sports betting shall be offered only under the same brand as the track or that of the service provider contracted with the track, or both.*
 - (5) *A track or service provider through an agreement with a licensed track shall not offer sports wagering until the racing commission has issued a sports wagering license to the track, except for temporary licenses authorized under Section 11 of this Act.*
 - (6) (a) *A track licensed under Section 10 of this Act may offer sports wagering at a facility that meets the definition of "track" in Section 3 of this Act.*
 - (b) *A simulcast facility may offer sports wagering through an agreement with a track by using any of that track's already established service providers.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

- (1) *Sporting events that may be wagered upon include but are not limited to:*
 - (a) *Professional sporting events;*
 - (b) *College sporting events sanctioned by the National Collegiate Athletic Association, the National Association of Intercollegiate Athletics, or other collegiate athletic body recognized by the racing commission;*
 - (c) *Amateur sporting events;*
 - (d) *International sporting events, including but not limited to the Olympics and World Cup Soccer;*
 - (e) *Electronic sports, e-sports, and competitive video game events; and*
 - (f) *Any other event authorized by the racing commission.*
- (2) (a) *A sports governing body may submit a request to the racing commission to restrict, limit, or exclude a certain type, form, or category of sports wagering with respect to covered sporting events of that body, if the sport's governing body believes that this type, form, or category of sports wagering with respect to covered sporting events of that body may undermine the integrity or perceived integrity of that*

body or covered sporting events of that body. The sport's governing body shall provide the racing commission with notice of this request in the form and manner required by the racing commission.

- (b) *The racing commission shall request comment from tracks and service providers on all requests made under paragraph (a) of this subsection. After giving due consideration to all comments received, the racing commission shall grant the request if the requesting body demonstrates good cause that this type, form, or category of sports wagering is likely to undermine the integrity or perceived integrity of the sport's governing body or covered sporting events of that body.*
- (c) *The racing commission shall respond to a request concerning a particular event before the start of the event, or if it is not feasible to respond before the start of the event, no later than seven (7) days after the request is made. If the racing commission determines that the requestor is more likely than not to prevail in successfully demonstrating good cause for its request, the racing commission may provisionally grant the request of the sport's governing body until the racing commission makes a final determination as to whether the requestor has demonstrated good cause. Absent this provisional grant by the racing commission, tracks and service providers may continue to offer sports wagering on covered sporting events that are the subject of the request during the pendency of the racing commission's consideration of the applicable request.*

➔Section 6. KRS 230.215 is amended to read as follows:

- (1) (a) It is the policy of the Commonwealth of Kentucky, in furtherance of its responsibility to foster and to encourage legitimate occupations and industries in the Commonwealth and to promote and to conserve the public health, safety, and welfare, and it is hereby declared the intent of the Commonwealth to foster and to encourage the horse breeding industry within the Commonwealth and to encourage the improvement of the breeds of horses.
- (b) Further, it is the policy and intent of the Commonwealth to foster and to encourage the business of legitimate horse racing with pari-mutuel wagering thereon in the Commonwealth on the highest possible plane. Further, it hereby is declared the policy and intent of the Commonwealth that all racing not licensed under this chapter is a public nuisance and may be enjoined as such.
- (c) Further, it is hereby declared the policy and intent of the Commonwealth that the conduct of horse racing, or the participation in any way in horse racing, or the entrance to or presence where horse racing is conducted, is a privilege and not a personal right; and that this privilege may be granted or denied by the racing commission or its duly approved representatives acting in its behalf.
- (d) *Further, it is hereby declared the policy and intent of the Commonwealth that citizens shall be allowed to enjoy wagering on sporting events in a controlled environment that protects the citizens from cheating and fraud, and that such wagering shall be best controlled and overseen by the Kentucky Horse Racing Commission, which has demonstrated a long and successful history of regulating wagering.*
- (2) (a) It is hereby declared the purpose and intent of this chapter in the interest of the public health, safety, and welfare, to vest in the racing commission forceful control of horse racing in the Commonwealth with plenary power to promulgate administrative regulations prescribing conditions under which all legitimate horse racing and wagering thereon is conducted in the Commonwealth so as to encourage the improvement of the breeds of horses in the Commonwealth, to regulate and maintain horse racing at horse race meetings in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled horse racing practices, and to regulate and maintain horse racing at race meetings in the Commonwealth so as to dissipate any cloud of association with the undesirable and maintain the appearance as well as the fact of complete honesty and integrity of horse racing in the Commonwealth.
- (b) *In addition, it is hereby declared the purpose and intent of this chapter to vest in the racing commission exclusive jurisdiction over sports wagering in the Commonwealth, with plenary power to promulgate administrative regulations prescribing conditions under which all sports wagering is to be conducted.*
- (c) In addition to the general powers and duties vested in the racing commission by this chapter, it is the intent hereby to vest in the racing commission the power to eject or exclude from association grounds or any part thereof any person, licensed or unlicensed, whose conduct or reputation is such that his *or her* presence on association grounds may, in the opinion of the racing commission, reflect on the honesty

and integrity of horse racing or interfere with *either* the orderly conduct of horse racing *or the orderly conduct of sports wagering*.

➔Section 7. KRS 230.225 is amended to read as follows:

- (1) The Kentucky Horse Racing Commission is created as an independent agency of state government to regulate the conduct of horse racing and pari-mutuel wagering on horse racing, *sports wagering*, and related activities within the Commonwealth of Kentucky. The racing commission shall be attached to the Public Protection Cabinet for administrative purposes.
- (2)
 - (a) The Kentucky Horse Racing Commission shall consist of fifteen (15) members appointed by the Governor, with the secretaries of the Public Protection Cabinet, Tourism, Arts and Heritage Cabinet, and Economic Development Cabinet, or their designees, serving as ex officio nonvoting members.
 - (b) Two (2) members shall have no financial interest in the business or industry regulated.
 - (c) The members of the racing commission shall be appointed to serve for a term of four (4) years, except the initial terms shall be staggered as follows:
 1. Five (5) members shall serve for a term of four (4) years;
 2. Five (5) members shall serve for a term of three (3) years; and
 3. Five (5) members shall serve for a term of two (2) years.
 - (d) Any member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.
 - (e) In making appointments, the Governor may consider members broadly representative of the Thoroughbred industry and members broadly representative of the standardbred, quarter horse, Appaloosa, or Arabian industries. The Governor may also consider recommendations from the Kentucky Thoroughbred Owners and Breeders, Inc., the Kentucky Division of the Horsemen's Benevolent and Protective Association, the Kentucky Harness Horsemen's Association, and other interested organizations.
- (3)
 - (a) Members of the racing commission shall receive no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions consistent with the reimbursement policy for state employees established by KRS 45.101 and administrative regulations promulgated thereunder.
 - (b) The Governor shall appoint one (1) member of the racing commission to serve as its chairperson who shall serve at the pleasure of the Governor.
 - (c) The Governor shall further designate a second member to serve as vice chair with authority to act in the absence of the chairperson.
 - (d) Before entering upon the discharge of their duties, all members of the Kentucky Horse Racing Commission shall take the constitutional oath of office.
- (4)
 - (a) The racing commission shall establish and maintain a general office for the transaction of its business and may in its discretion establish a branch office or offices.
 - (b) The racing commission may hold meetings at any of its offices or at any other place when the convenience of the racing commission requires.
 - (c) All meetings of the racing commission shall be open and public, and all persons shall be permitted to attend meetings.
 - (d) A majority of the voting members of the racing commission shall constitute a quorum for the transaction of its business or exercise of any of its powers.
- (5) Except as otherwise provided, the racing commission shall be responsible for the following:
 - (a) Developing and implementing programs designed to ensure the safety and well-being of horses, jockeys, and drivers;
 - (b) Developing programs and procedures that will aggressively fulfill its oversight and regulatory role on such matters as medical practices and integrity issues;

- (c) Recommending tax incentives and implementing incentive programs to ensure the strength and growth of the equine industry;
- (d) Designing and implementing programs that strengthen the ties between Kentucky's horse industry and the state's universities, with the goal of significantly increasing the economic impact of the horse industry on Kentucky's economy, improving research for the purpose of promoting the enhanced health and welfare of the horse, and other related industry issues;~~and~~
- (e) Developing and supporting programs which ensure that Kentucky remains in the forefront of equine research;
- (f) *Developing monitoring programs to ensure the highest integrity of sporting events and sports wagering; and*
- (g) *Developing a program to share wagering information with sports governing bodies upon which sports wagering may be conducted. The program shall be designed to assist the racing commission in determining potential problems or questionable activity and provide reports to sports governing bodies effectively.*

➔Section 8. KRS 230.240 is amended to read as follows:

- (1) (a) In addition to the employees referred to in KRS 230.230, the executive director of the racing commission may employ, dismiss, or take other personnel action and determine the reasonable compensation of stewards, supervisors of mutuels, *supervisors of sports wagering*, veterinarians, inspectors, accountants, security officers, and other employees deemed by the executive director to be essential at or in connection with any horse race meeting and in the best interest of racing, *or those deemed by the executive director to be integral to the conduct of sports wagering*.
- (b) Three (3) Thoroughbred stewards shall be employed at each Thoroughbred race meeting *as follows*:~~;~~
 - 1. Two (2) stewards shall be employed and compensated by the Commonwealth, subject to reimbursement by the racing associations pursuant to subsection (3) of this section; ~~and~~~~;~~
 - 2. One (1) Thoroughbred steward shall be employed and compensated by the racing association hosting the race meeting.
- (c) Three (3) standardbred judges shall be employed at each standardbred race meeting *as follows*:~~;~~
 - 1. Two (2) standardbred judges shall be employed and compensated by the Commonwealth, subject to reimbursement by the racing associations pursuant to subsection (3) of this section; ~~and~~~~;~~
 - 2. One (1) standardbred judge shall be employed and compensated by the racing association hosting the race meeting.
- (d) The security officers shall be peace officers and conservators of the peace on racing commission property and at all race tracks and grounds in the Commonwealth and shall possess all the common law and statutory powers and privileges now available or hereafter made available to sheriffs, constables granted police powers, and police officers for the purpose of enforcing all laws relating directly or indirectly to the conduct of horse racing and pari-mutuel wagering thereon, *the conduct of sports wagering*, or the enforcement of laws relating to the protection of persons or property on premises licensed by the racing commission.
- (e) The racing commission, for the purpose of maintaining integrity and honesty in racing, shall prescribe by administrative regulation the powers and duties of the persons employed under this section and qualifications necessary to competently perform their duties. In addition, the racing commission shall be responsible for seeing that racing officials employed under the provisions of this section have adequate training to perform their duties in a competent manner.
- (2) (a) The racing commission shall promulgate administrative regulations for effectively preventing the use of improper devices *at race meetings or in the conduct of sports wagering*, and restricting or prohibiting the use and administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race.
- (b) The racing commission may acquire, operate, and maintain, or contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urine, or other tests, and to purchase supplies and equipment for and in connection with the laboratory or testing processes.

- (c) The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under this chapter in the manner and in proportions as the racing commission shall by administrative regulation provide.
- (3) (a) The expenses of the commission and the compensation of all employees referred to in this section shall be paid by the licensee conducting a horse race meeting or pari-mutuel wagering on live or historic horse racing, **provided that the expenses of the commission and the compensation of employees under this section related to administering the system of sports wagering shall be paid by the sports wagering administration fund established in Section 1 of this Act.**
- (b) The salary of the executive director to the racing commission shall be prorated among and paid by the various ~~persons~~^{associations} licensed under this chapter in the manner as the racing commission shall, by administrative regulation, provide.
- (c) Except for the Thoroughbred steward and the standardbred judge authorized in subsection (1) of this section, the employees referred to in this section shall be deemed employees of the racing commission, and are paid by the licensee or association.
- (4) Each person, as a condition precedent to the privilege of receiving a license under this chapter to conduct a horse race meeting, shall be deemed to have agreed to pay expenses and compensation as provided in this section and as may be actually and reasonably incurred.

➔Section 9. KRS 230.260 is amended to read as follows:

The racing commission, in the interest of breeding or the improvement of breeds of horses **and in the interest of ensuring the integrity of authorized sports wagering**, shall have all powers necessary and proper to carry out fully and effectually the provisions of this chapter including but without limitation the following:

- (1) The racing commission is vested with jurisdiction and supervision over all horse race meetings **and sports wagering** in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that **the person's**^[his] presence on association grounds may, in the opinion of the racing commission, **negatively** reflect on the honesty and integrity of horse racing, **or on sporting events upon which sports wagers may be placed**, or interfere with the orderly conduct of horse racing or racing at horse race meetings; provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;
- (2) The racing commission is vested with jurisdiction over any person or entity that offers advance deposit account wagering to Kentucky residents. Any such person or entity under the jurisdiction of the racing commission shall be licensed by the racing commission, and the racing commission may impose a license fee not to exceed ten thousand dollars (\$10,000) annually. The racing commission shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish conditions and procedures for the licensing of advance deposit account wagering providers to include but not be limited to:
 - (a) A fee schedule for applications for licensure; and
 - (b) Reporting requirements to include quarterly reporting on:
 - 1. The amount wagered on Kentucky races; and
 - 2. The total amount wagered by Kentuckians;
- (3) The racing commission is vested with jurisdiction over any totalisator company that provides totalisator services to a racing association located in the Commonwealth. A totalisator company under the jurisdiction of the racing commission shall be licensed by the racing commission, regardless of whether a totalisator company is located in the Commonwealth or operates from a location or locations outside of the Commonwealth, and the racing commission may impose a license fee on a totalisator company. The racing commission shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish conditions and procedures for the licensing of totalisator companies, and a fee schedule for applications for licensure;
- (4) The racing commission is vested with jurisdiction over any manufacturer, wholesaler, distributor, or vendor of any equine drug, medication, therapeutic substance, or metabolic derivative which is purchased by or delivered to a licensee or other person participating in Kentucky horse racing by means of the Internet, mail delivery, in-person delivery, or other means;

- (5) The racing commission is vested with jurisdiction over any horse training center or facility in the Commonwealth that records official timed workouts for publication;
- (6) The racing commission may require an applicant for a license under subsections (2) and (3) of this section to submit to a background check of the applicant, or of any individual or organization associated with the applicant. An applicant shall be required to reimburse the racing commission for the cost of any background check conducted;
- (7) The racing commission, its representatives and employees, may visit, investigate and have free access to the office, track, facilities, or other places of business of any licensee, or any person owning a horse or performing services regulated by this chapter on a horse registered to participate in a breeders incentive fund under the jurisdiction of the racing commission;
- (8) The racing commission shall have full authority to prescribe necessary and reasonable administrative regulations and conditions under which horse racing at a horse race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes, or awards to be offered for the conduct of any horse race meeting;
- (9) Applications for licenses shall be made in the form, in the manner, and contain information as the racing commission may, by administrative regulation, require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the racing commission;
- (10) The racing commission shall establish by administrative regulation minimum fees for jockeys to be effective in the absence of a contract between an employing owner or trainer and a jockey. The minimum fees shall be no less than those of July 1, 1985;
- (11) The racing commission may refuse to issue or renew a license, revoke or suspend a license, impose probationary conditions on a license, issue a written reprimand or admonishment, impose fines or penalties, deny purse money, require the forfeiture of purse money, or any combination thereof with regard to a licensee or other person participating in Kentucky horse racing for violation of any federal or state statute, regulation, or steward's or racing commission's directive, ruling, or order to preserve the integrity of Kentucky horse racing or to protect the racing public. The racing commission shall, by administrative regulation, establish the criteria for taking the actions described in this subsection;
- (12) The racing commission may issue subpoenas for the attendance of witnesses before it and for the production of documents, records, papers, books, supplies, devices, equipment, and all other instrumentalities related to pari-mutuel horse racing *or sports wagering* within the Commonwealth. The racing commission may administer oaths to witnesses and require witnesses to testify under oath whenever, in the judgment of the racing commission, it is necessary to do so for the effectual discharge of its duties;
- (13) The racing commission shall have authority to compel any racing association licensed under this chapter to file with the racing commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association;
- (14) The racing commission shall promulgate administrative regulations establishing safety standards for jockeys, which shall include the use of rib protection equipment. Rib protection equipment shall not be included in a jockey's weight;~~and~~
- (15)
 - (a) The racing commission shall promulgate administrative regulations establishing a self-exclusion list for individuals who self-identify as being problem or compulsive gamblers.
 - (b) Each racing association shall display a notice to the public of the self-exclusion list and the method or methods individuals may use to self-identify at the track, online, or by phone.
 - (c) Self-exclusion information collected by each racing association shall be forwarded to the racing commission, and the information from the racing associations shall be compiled into a comprehensive list that shall be provided to all racing associations.
 - (d) Pursuant to KRS 61.878(1)(a), information collected under this subsection shall be excluded from the application of KRS 61.870 to 61.884; *and*
- (16)
 - (a) *The racing commission shall promulgate administrative regulations to establish standards for the conduct of sports wagering, including standards for receiving and paying out wagers, offering sports wagering through a website or mobile application, maintaining and auditing books and financial records, securely maintaining records of bets and wagers, integrity requirements for sports wagering*

and related data, suitability requirements for providers of associated equipment, geofence standards for wager placement, designated areas for sports wagering, surveillance and monitoring systems, and other reasonable technical criteria related to conducting sports wagering.

- (b) *The racing commission shall promulgate administrative regulations related to age requirements for placing sports wagers, availability of information related to sports wagers, and licensing requirements, including temporary authorizations, for service providers, vendors, and suppliers.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in subsection (6) of Section 4 of this Act, no person shall conduct, manage, or offer to conduct sports wagering within the Commonwealth of Kentucky without obtaining a license from the racing commission.*
- (2) *As a prerequisite to obtaining a sports wagering license, a person shall be licensed as an association under KRS 230.300. If sports wagering is conducted by the track that chooses not to contract with a service provider, it shall comply with the standards established by the racing commission for service providers to ensure the integrity of the system of sports wagering before conducting sports wagering in the Commonwealth.*
- (3) *In addition to the requirement in subsection (2) of this section, an initial fee of five hundred thousand dollars (\$500,000) shall be paid to the racing commission before a sports wagering license may be issued to a track.*
- (4) *An annual renewal fee of fifty thousand dollars (\$50,000) shall be required for each sports wagering license.*
- (5) *Licensing fees paid under this section shall be deposited into the sports wagering administration fund established by Section 1 of this Act.*

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

- (1) *The racing commission may issue a service provider license to a qualified applicant.*
- (2) *A person applying for a service provider license under this chapter shall pay a nonrefundable application fee of fifty thousand dollars (\$50,000) to the racing commission.*
- (3) *In determining whether to grant a service provider's license to an applicant, the racing commission shall consider:*
- (a) *The applicant and its past, current, or future operations; and*
- (b) *A person that is deemed to have control over the applicant. For the purposes of this section, the following persons are deemed to have control over an applicant:*
1. *Each corporate holding company, parent company, or subsidiary company of a corporate applicant or licensee and each person that owns five percent (5%) or more of the corporate applicant or licensee and that has the ability to control the activities of the corporate applicant or licensee or elect a majority of the board of directors of that corporate applicant or licensee;*
 2. *Each person associated with a noncorporate applicant or licensee that directly or indirectly holds a beneficial or proprietary interest in the noncorporate applicant's or licensee's business operation or that the director otherwise determines has the ability to control the noncorporate applicant or licensee; and*
 3. *Any officer or director of an applicant or licensee having the power to exercise significant influence over decisions concerning any part of the applicant's or licensee's relevant sports wagering business operation in this state.*
- (4) *A service provider licensee shall pay an annual renewal fee of ten thousand dollars (\$10,000).*
- (5) *A person applying for a service provider license to conduct sports wagering through an agreement with a licensed track may receive a temporary license to immediately commence sports wagering operations if the applicant:*
- (a) *Satisfies the racing commission's requirements for a temporary license, which may consider operations in other jurisdictions in the United States; and*

(b) Pays the initial licensing fee of fifty thousand dollars (\$50,000) under subsection (2) of this section to the racing commission.

- (6) A temporary license granted to an applicant for a service provider to offer sports wagering under subsection (5) of this section may be valid for up to one (1) year, during which a permanent license shall be granted or denied. An applicant shall not be eligible for an extended or renewed temporary license. The racing commission reserves the right to revoke any license issued pursuant to this chapter if it determines that the licensee has violated any provisions of this chapter or is otherwise deemed unfit for a license.*
- (7) Fees paid under this section shall be deposited into the sports wagering administration fund established by Section 1 of this Act.*

➔Section 12. KRS 230.310 is amended to read as follows:

- (1) Every person not required to be licensed under KRS 230.300 who desires to participate in horse racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, or in any other capacity as the racing commission shall from time to time establish by administrative regulation, shall first apply to the racing commission for a license to participate in the activity on association grounds during a race meeting. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. An applicant for a license shall submit to the racing commission fingerprints as may be required and other information necessary and reasonable for processing a license application. The racing commission is authorized to exchange fingerprint data with the Department of Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of an applicant. The racing commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof.
- (2) *Every person who desires to participate in sports wagering in the Commonwealth working in a licensed facility for sports wagering, directly supervising individuals who have the capability of affecting the outcome of sports wagering, or having the capability to affect the outcome of sports wagering through deployment of code to production for any critical component of a sports wagering system or the capability to deploy code to production shall first apply to the commission for a valid occupational license to participate in that activity. An applicant for an occupational license shall submit to the racing commission fingerprints as may be required and other information necessary and reasonable for processing a license application. The racing commission is authorized to exchange fingerprint data with the Department of Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of an applicant. The racing commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license are consistent with the best interest of sports wagering in the Commonwealth, and the maintenance of the honesty, integrity, and high quality thereof.*
- (3) A license may be issued for the calendar year for which an applicant applies or, if authorized by administrative regulation, a license may be issued that expires on the last day of the birth month of the licensee. A license may be renewed by the racing commission. The license shall be valid at all horse race meetings in the Commonwealth during the period for which it is issued unless suspended or revoked under the administrative regulations promulgated by the racing commission under this chapter. *The occupational license to participate in sports wagering may be suspended or revoked pursuant to administrative regulations promulgated by the racing commission under this chapter.* With respect to horse owners and trainers, the racing commission may promulgate administrative regulations to facilitate and promote uniform, reciprocal licensing with other states.

➔Section 13. KRS 230.361 is amended to read as follows:

- (1) (a) The racing commission shall promulgate administrative regulations governing and regulating mutual wagering on horse races under what is known as the pari-mutuel system of wagering.
- (b) The wagering shall be conducted only by a person licensed under this chapter to conduct a race meeting and only upon the licensed premises, and provided further that only pari-mutuel wagering on simulcasting shall be allowed at simulcast facilities.

- (c) The pari-mutuel system of wagering shall be operated only by a totalizator or other mechanical equipment approved by the racing commission. The racing commission shall not require any particular make of equipment.
- (2) *The racing commission shall promulgate administrative regulations governing and regulating sports wagering, including administrative regulations for the deposit of funds by credit or debit cards or other means of electronic funds transfer. The racing commission shall promulgate administrative regulations to establish a fully functioning sports wagering system within six (6) months after the effective date of this Act.*
- (3) The operation of a pari-mutuel system for betting, *or the conduct of sports wagering*, where authorized by law shall not constitute grounds for the revocation or suspension of any license issued and held under KRS 242.1238 and 243.265.
- ~~(4)~~~~(3)~~ All reported but unclaimed pari-mutuel winning tickets held in this state by any person or association operating a pari-mutuel or similar system of betting at horse race meetings shall be presumed abandoned if not claimed by the person entitled to them within one (1) year from the time the ticket became payable.
- ~~(5)~~~~(4)~~ The racing commission may issue a license to conduct pari-mutuel wagering on steeple chases or other racing over jumps; if all proceeds from the wagering, after expenses are deducted, is used for charitable purposes. If the dates requested for such a license have been granted to a track within a forty (40) mile radius of the race site, the racing commission shall not issue a license until it has received written approval from the affected track. Pari-mutuel wagering licensed and approved under this subsection shall be limited to four (4) days per year. All racing and wagering authorized by this subsection shall be conducted in accordance with applicable administrative regulations promulgated by the racing commission.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Adjusted gross revenue" means the total sum of wagers collected on all sporting events, less winnings paid to participants in the contest and all excise taxes paid pursuant to federal law;*
- (b) *"Department" means Department of Revenue;*
- (c) *"Sporting event" has the same meaning as in Section 3 of this Act;*
- (d) *"Sports wagering" has the same meaning as in Section 3 of this Act; and*
- (e) *"Taxpayer" means any person liable for tax under this section.*

(2) *An excise tax is imposed on persons licensed to conduct sports wagering under Sections 10 and 11 of this Act at a rate of:*

- (a) *Nine and three-quarters percent (9.75%) on the adjusted gross revenue on wagers placed at the licensed track; and*
- (b) *Fourteen and one-quarter percent (14.25%) on the adjusted gross revenue on wagers placed online via websites or mobile applications or other off-site technology approved by the Kentucky Horse Racing Commission;*

and shall be appropriated to the sports wagering administration fund established in Section 1 of this Act and appropriated for the purposes established in that section.

- (3) *The department shall enforce the provisions of and collect the taxes and penalties imposed in this section, and in doing so it shall have the general powers and duties granted it in KRS Chapters 131 and 135, including the power to enforce, by an action in the Franklin Circuit Court, the collection of the taxes, penalties, and other payments imposed or required by this section.*
- (4) *The tax imposed by this section is due and payable to the department monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month. If a taxpayer's adjusted gross revenue for a month is a negative number, the taxpayer may carry over the negative amount to the return filed for the subsequent month. However, no amount shall be carried over in any period more than twelve (12) months after the month in which the amount carried over was originally due.*
- (5) (a) *Payment shall be accompanied by a return prescribed by the department.*
- (b) *The return form shall report, at a minimum:*
1. *The total sum of wagers collected in person and electronically through a mobile application;*

2. *Winnings paid in person and electronically through a mobile application;*
 3. *Adjusted gross revenue in person and electronically through a mobile application;*
 4. *Tax rates applied to adjusted gross revenue in person and electronically through a mobile application;*
 5. *The tax due from adjusted gross revenues in person and electronically through a mobile application;*
 6. *Federal excise taxes paid; and*
 7. *The total wagering tax due.*
- (6) *Wagering taxes due and payable in accordance with this section shall be paid via electronic funds transfer. The taxpayer shall provide the department with all protocol documentation and electronic funds transfer data necessary to facilitate the timely transfer of funds.*
- (7) *Any taxpayer who violates any provision of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6).*
- (8) *The Kentucky Horse Racing Commission may suspend, revoke, or decline to renew a license upon the taxpayer's failure to timely submit payment of taxes due under this section or the administrative regulations promulgated by the department.*
- (9) *The taxes imposed by this section shall be in lieu of all other state and local taxes and fees imposed on the operation of, or the proceeds from, the operation of sports wagering.*

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

- (1) *A person shall not place a sports wager on a game or event in which the person is a participant.*
- (2) *As used in this section, "participant" includes:*
- (a) *Players;*
 - (b) *Coaches;*
 - (c) *Referees, umpires, judges, or other officials involved in enforcing the rules of the game;*
 - (d) *Spouses and close family members of persons included in paragraphs (a) to (c) of this subsection;*
 - (e) *Owners or shareholders of more than five percent (5%) interest in professional sports teams who might have influence over players and coaches through the ability to hire or fire; and*
 - (f) *Other persons identified by the racing commission as participants.*
- (3) *A person is guilty of tampering with the outcome of a sporting event when the person interacts with a player, coach, referee, or other participant with the intent to persuade the participant to act in a way that would:*
- (a) *Alter the outcome of the sporting event; or*
 - (b) *Alter actions within the sporting event upon which people might place sports wagers.*

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

- (1) *An employee of any track shall not wager or be paid a prize from any wager placed with that sports wagering licensee or placed online via a website or mobile application with a service provider licensee that has an agreement with that sports wagering licensee.*
- (2) *An employee of any service provider licensee offering sports wagering through an agreement with a track shall not wager or be paid a prize from any wager placed with that track or placed online via a website or mobile application with a service provider licensee that has an agreement with that track.*

➔Section 17. KRS 230.990 is amended to read as follows:

- (1) Any person who violates KRS 230.070 or KRS 230.080(3) shall be guilty of a Class D felony.
- (2) Any person who violates KRS 230.090 shall be guilty of a Class A misdemeanor.
- (3) Any person who violates KRS 230.680 shall be guilty of a Class A misdemeanor.

- (4) Any person who refuses to make any report or to turn over sums as required by KRS 230.361 to 230.373 shall be guilty of a Class A misdemeanor.
- (5) Any person failing to appear before the racing commission at the time and place specified in the summons issued pursuant to KRS 230.260(12), or refusing to testify, shall be guilty of a Class B misdemeanor. False swearing on the part of any witness shall be deemed perjury and punished as such.
- (6)
 - (a) A person is guilty of tampering with or interfering with a horse race when, with the intent to influence the outcome of a horse race, he *or she* uses any device, material, or substance not approved by the Kentucky Horse Racing Commission on or in any participant involved in or eligible to compete in a horse race to be viewed by the public.
 - (b) Any person who, while outside the Commonwealth and with intent to influence the outcome of a horse race contested within the Commonwealth, tampers with or interferes with any equine participant involved in or eligible to compete in a horse race in the Commonwealth is guilty of tampering with or interfering with a horse race.
 - (c) Tampering with or interfering with a horse race is a Class C felony.
- (7) ***Any participant who wagers on a sporting event in violation of Section 15 of this Act is guilty of a Class A misdemeanor.***
- (8) ***Any person tampering with the outcome of a sporting event in violation of Section 15 of this Act is guilty of a Class C felony.***

➔Section 18. KRS 243.500 is amended to read as follows:

Any license may be revoked or suspended for the following causes:

- (1) Conviction of the licensee or the licensee's agent, servant, or employee for selling any illegal alcoholic beverages on the licensed premises.
- (2) Making any false, material statements in an application or renewal application for a license or supplemental license.
- (3) Conviction of the licensee or any of the licensee's agents, servants, or employees of:
 - (a) Two (2) violations of the terms and provisions of KRS Chapters 241 to 244, or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two (2) consecutive years;
 - (b) Two (2) misdemeanors directly or indirectly attributable to the use of alcoholic beverages within two (2) consecutive years; or
 - (c) Any felony.
- (4) Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any related administrative regulations promulgated by the Department of Revenue.
- (5) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages.
- (6) Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This subsection shall not apply to:
 - (a) The sale of lottery tickets sold under the provisions of KRS Chapter 154A;
 - (b) The operation of a pari-mutuel system for betting, ***or the operation of sports wagering***, where authorized by law;
 - (c) The conduct of charitable gaming by a charitable organization licensed or permitted under KRS Chapter 238; or
 - (d) Special temporary raffles of alcoholic beverages under KRS 243.036.
- (7) Conviction of the licensee, the licensee's agents, servants, or employees for:

- (a) The trafficking or possession upon the licensed premises of controlled or illegal substances described in KRS Chapter 218A, including synthetic drugs;
 - (b) Knowingly permitting the trafficking or possession by patrons upon the licensed premises of controlled or illegal substances described in KRS Chapter 218A, including synthetic drugs; or
 - (c) Knowingly receiving stolen property upon the licensed premises.
- (8) Failure to comply with the terms of a final order of the board.

➔Section 19. KRS 525.090 is amended to read as follows:

- (1) A person is guilty of loitering when *the person*~~he~~:
- (a) Loiters or remains in a public place for the purpose of gambling with cards, dice or other gambling paraphernalia, except that the provisions of this section shall not apply if the person is participating in charitable gaming defined by KRS 238.505, *or is engaged in sports wagering licensed under KRS Chapter 230*~~;~~
 - (b) Loiters or remains in a public place for the purpose of unlawfully using a controlled substance~~;~~
 - (c) Loiters or remains in or about a school, college or university building or grounds, not having any reason or relationship involving custody of or responsibility for a pupil or student or any other specific legitimate reason for being there and not having written permission from anyone authorized to grant the same; or
 - (d) Loiters or remains in any transportation facility, unless specifically authorized to do so, for the purpose of soliciting or engaging in any business, trade or commercial transactions involving the sale of merchandise or services.
- (2) Loitering is a violation.

➔Section 20. KRS 68.182 is amended to read as follows:

- (1) Occupational license fees levied under KRS 67.083, 68.180, and 68.197 by the fiscal court of a county, consolidated local government, urban-county government, charter county government, or unified local government may apply to racetrack extensions.
- (2) As used in this section:
- (a) "Historical horse race" has the same meaning as in KRS 138.511; and
 - (b) 1. "Racetrack extension" means any facility:
 - a. Owned, leased, or purchased by an association licensed by the Kentucky Horse Racing Commission under KRS 230.300;
 - b. That meets the definition of "track" under *subsection (33)(c) of Section 3 of this Act*~~KRS 230.210(24)(e)~~; and
 - c. Where pari-mutuel wagering on historical horse races is conducted on terminals approved by the Kentucky Horse Racing Commission.
 - 2. "Racetrack extension" does not include a facility or real property used for training horses or at which live horse races are run for stakes, purses, or prizes under the jurisdiction of the Kentucky Horse Racing Commission.

➔Section 21. KRS 91.202 is amended to read as follows:

- (1) Occupational license fees levied under KRS 91.200 by the legislative body of a city of the first class may apply to racetrack extensions.
- (2) As used in this section:
- (a) "Historical horse race" has the same meaning as in KRS 138.511; and
 - (b) 1. "Racetrack extension" means any facility:
 - a. Owned, leased, or purchased by an association licensed by the Kentucky Horse Racing Commission under KRS 230.300;

- b. That meets the definition of "track" under *subsection (33)(c) of Section 3 of this Act* ~~[KRS 230.210(24)(e)]~~; and
 - c. Where pari-mutuel wagering on historical horse races is conducted on terminals approved by the Kentucky Horse Racing Commission.
2. "Racetrack extension" does not include a facility or real property used for training horses or at which live horse races are run for stakes, purses, or prizes under the jurisdiction of the Kentucky Horse Racing Commission.

➔Section 22. KRS 92.282 is amended to read as follows:

- (1) Occupational license fees levied under KRS 92.281 by the legislative body of a city may apply to racetrack extensions.
- (2) As used in this section:
 - (a) "Historical horse race" has the same meaning as in KRS 138.511; and
 - (b) 1. "Racetrack extension" means any facility:
 - a. Owned, leased, or purchased by an association licensed by the Kentucky Horse Racing Commission under KRS 230.300;
 - b. That meets the definition of "track" under *subsection (33)(c) of Section 3 of this Act* ~~[KRS 230.210(24)(e)]~~; and
 - c. Where pari-mutuel wagering on historical horse races is conducted on terminals approved by the Kentucky Horse Racing Commission.
 - 2. "Racetrack extension" does not include a facility or real property used for training horses or at which live horse races are run for stakes, purses, or prizes under the jurisdiction of the Kentucky Horse Racing Commission.

➔Section 23. KRS 436.480 is amended to read as follows:

KRS Chapter 528 shall not apply to pari-mutuel *or sports* wagering authorized under the provisions of KRS Chapter 230.

➔Section 24. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Signed by Governor March 31, 2023.

CHAPTER 148

(HB 5)

AN ACT relating to fiscal matters and declaring an emergency.

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

➔Section 1. KRS 132.140 is amended to read as follows:

- (1) The department ~~[of Revenue]~~ shall fix the value of the distilled spirits for the purpose of taxation, assess the same at its fair cash value, estimated at the price it would bring at a fair voluntary sale, **calculate the exempt portion of the property taxes**, and keep a record of ~~the [its]~~ valuations and assessments. The department shall immediately notify the owner or proprietor of the bonded warehouse or premises of the amount fixed, **including the portion of the property tax exemption as calculated in subsection (3) of this section**.
- (2) (a) **For purposes of this subsection only:**
 - 1. **"Premises" means a bonded warehouse containing distilled spirits:**

- a. *The costs of which are financed by one (1) or more series of industrial bonds under KRS Chapter 103 issued prior to January 1, 2024; and*
 - b. *Any portion of the costs of which remains financed by those bonds during any portion of the calendar year; and*
2. *"Taxpayer" means the owner, proprietor, or custodian of one (1) or more premises.*
- (b) *Notwithstanding subsection (3) of this section, the state and local tax rate that may be levied on distilled spirits for a taxpayer of a premises shall be the state and local tax rate for tax assessments made on January 1, 2023.*
 - (c) *Distilled spirits stored or aging in barrels located in a bonded warehouse or premises shall be exempt from state and local ad valorem taxes for tax assessments made on or after January 1, 2043.*
- (3) *The maximum state and local tax rate that may be levied on distilled spirits stored or aging in barrels located in a bonded warehouse or premises shall be as follows:*
- (a) *Ninety-six percent (96%) of the otherwise applicable tax rate for tax assessments made on January 1, 2026;*
 - (b) *Ninety-two percent (92%) of the otherwise applicable tax rate for tax assessments made on January 1, 2027;*
 - (c) *Eighty-eight percent (88%) of the otherwise applicable tax rate for tax assessments made on January 1, 2028;*
 - (d) *Eighty-four percent (84%) of the otherwise applicable tax rate for tax assessments made on January 1, 2029;*
 - (e) *Eighty percent (80%) of the otherwise applicable tax rate for tax assessments made on January 1, 2030;*
 - (f) *Seventy-six percent (76%) of the otherwise applicable tax rate for tax assessments made on January 1, 2031;*
 - (g) *Seventy-two percent (72%) of the otherwise applicable tax rate for tax assessments made on January 1, 2032;*
 - (h) *Sixty-eight percent (68%) of the otherwise applicable tax rate for tax assessments made on January 1, 2033;*
 - (i) *Sixty-one percent (61%) of the otherwise applicable tax rate for tax assessments made on January 1, 2034;*
 - (j) *Fifty-four percent (54%) of the otherwise applicable tax rate for tax assessments made on January 1, 2035;*
 - (k) *Forty-four percent (44%) of the otherwise applicable tax rate for tax assessments made on January 1, 2036;*
 - (l) *Thirty-eight percent (38%) of the otherwise applicable tax rate for tax assessments made on January 1, 2037;*
 - (m) *Thirty-two percent (32%) of the otherwise applicable tax rate for tax assessments made on January 1, 2038;*
 - (n) *Twenty-four percent (24%) of the otherwise applicable tax rate for tax assessments made on January 1, 2039;*
 - (o) *Twenty percent (20%) of the otherwise applicable tax rate for tax assessments made on January 1, 2040;*
 - (p) *Fifteen percent (15%) of the otherwise applicable tax rate for tax assessments made on January 1, 2041; and*
 - (q) *Eight percent (8%) of the otherwise applicable tax rate for tax assessments made on January 1, 2042.*
- (4) *Distilled spirits stored or aging in barrels located in a bonded warehouse or premises shall be exempt from state and local ad valorem taxes for tax assessments made on or after January 1, 2043.*

(5) If any owner, proprietor, or custodian of a bonded warehouse or premises fails to make the report required by KRS 132.130, the department shall ascertain the necessary facts required to be reported. For that purpose the department shall have access to the records of the owner, proprietor, or custodian; and the assessment shall be made and taxes collected thereon, with interest and penalties, as though regularly reported.

(6)~~(3)~~ The assessment made under (1) of this section shall be reviewed according to KRS 131.110.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Local jurisdiction" means:*

1. *A school district;*
2. *A fire protection district or subdistrict authorized to levy the ad valorem tax permitted by KRS 75.015 and 75.040 and provides fire or other emergency services; and*
3. *An area served by an emergency services board that levies the ad valorem tax permitted by KRS 75A.050 and provides fire or other emergency services;*

(b) *"Premises" means a bonded warehouse containing distilled spirits; and*

(c) *"Taxpayer" means the owner, proprietor, or custodian of one (1) of more premises.*

(2) *Beginning with the 2026 calendar year and for each subsequent calendar year thereafter, in addition to any ad valorem taxes collected under KRS 132.150, there is imposed a replacement tax on every taxpayer with a premises located in a local jurisdiction that collected ad valorem tax during calendar year 2025.*

(3) *The total replacement tax for each school district shall be:*

(a) *An amount that is not less than zero; and*

(b) *The result from the following calculation:*

1. *The ad valorem tax under KRS 132.150 on distilled spirits stored or aging in a premises collected by or on behalf of the school district during calendar year 2023;*
2. *Minus the amount of the ad valorem tax under KRS 132.150 collected by or on behalf of the school district for the applicable calendar year; and*
3. *Minus the amount by which the Support Education Excellence in Kentucky program under KRS 157.310 to 157.440 final calculation for the school year ending during the applicable calendar year exceeds the Support Education Excellence in Kentucky program final calculation for the 2022-2023 school year, as determined by the Department of Education under KRS 157.410(3). For purposes of the Support Education Excellence in Kentucky final calculation under this subparagraph, the average daily attendance and equalization ratio for the school year ending during the applicable calendar year shall not be less than those for the 2022-2023 school year final calculation.*

(4) *The total replacement tax for each fire district or emergency services board shall be:*

(a) *An amount that is not less than zero; and*

(b) *The result from the following calculation:*

1. *The ad valorem tax under KRS 132.150 on distilled spirits stored or aging in a premises collected by or on behalf of the fire district or emergency services board during calendar year 2025;*
2. *Minus the amount of the ad valorem tax under KRS 132.150 collected by or on behalf of the district or board for the applicable calendar year.*

(5) (a) *Each year the department shall assess taxpayers the replacement tax for the preceding calendar year in proportion to the number of barrels of distilled spirits stored and aging at their premises in the local jurisdiction on January 1 of that preceding calendar year.*

(b) *If a business-wide reduction or extraordinary event occurs, any taxpayer may apply to the secretary of the Finance and Administration Cabinet for a reduction in the taxpayer's replacement tax assessment.*

(c) *For purposes of this subsection:*

1. *"Business-wide reduction" means the volume of distilled spirits produced by all taxpayers at all business locations in this state during the applicable calendar year is less than the volume of distilled spirits at all business locations in this state in calendar year 2025; and*
2. *"Extraordinary event" means a pandemic, epidemic, restrictive governmental laws or regulations enacted after the effective date of this Act, riots, insurrection, war, acts of a government authority imposed after the effective date of this Act, court orders issued after the effective date of this Act, a natural disaster, a decrease in sales in excess of ten percent (10%), or other reason of a like nature determined by the secretary not to be the fault of the taxpayer and any other items determined by the secretary to be beyond the taxpayer's reasonable control, which prevents the taxpayer from producing distilled spirits.*

(6) *All revenues received by the department from the tax imposed by this section shall be distributed to the local jurisdiction for which the tax was levied within sixty (60) days from the date received.*

(7) *The department shall administer the replacement tax levied by this section and, in conjunction or consultation with any agency representing a local jurisdiction, may promulgate administrative regulations to implement this section.*

➔Section 3. KRS 141.389 is amended to read as follows:

(1) (a) There shall be allowed a nonrefundable and nontransferable credit to each taxpayer paying the distilled spirits ad valorem tax as follows:

1. For taxable years beginning on or after January 1, 2015, and before December 31, 2015, the credit shall be equal to twenty percent (20%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis;
2. For taxable years beginning on or after January 1, 2016, and before December 31, 2016, the credit shall be equal to forty percent (40%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis;
3. For taxable years beginning on or after January 1, 2017, and before December 31, 2017, the credit shall be equal to sixty percent (60%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis;
4. For taxable years beginning on or after January 1, 2018, and before December 31, 2018, the credit shall be equal to eighty percent (80%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis; and
5. For taxable years beginning on or after January 1, 2019, *but prior to January 1, 2024*, the credit shall be equal to one hundred percent (100%) of the tax assessed under KRS 132.160 and paid under KRS 132.180 on a timely basis.

(b) The credit shall be applied both to the income tax imposed under KRS 141.020 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401, with the ordering of the credits as provided in KRS 141.0205.

(2) (a) *For purposes of this section:*

1. *"Accumulated amount" means the tax credits that have been accumulated by a taxpayer under subsection (4)(a) of this section;*
2. *"Base reduction percentage" means the percentage by which the taxpayer's total number of barrels of distilled spirits stored or aging in this state as of January 1 of a taxable year does not equal or exceed the taxpayer's total number of barrels of distilled spirits stored or aging in this state as of January 1, 2025;*
3. *"Business-wide reduction" has the same meaning as in Section 2 of this Act;*
4. *"Extraordinary event" has the same meaning as in Section 2 of this Act; and*
5. *"LMI" means a low and moderate income population where the county median family income or county median household income is less than eighty percent (80%) of the state median family income or state median household income, respectively, as determined by using the most recent five (5) year American Community Survey published by the United States Census*

Bureau. For purposes of this section, once a county has been identified as an LMI population, the county shall remain an LMI population without regard to future determinations using the United States Census Bureau data.

- (b) *A taxpayer may make an election regarding the distilled spirits tax credit related to taxable years beginning on or after January 1, 2024, but prior to January 1, 2040. The election shall be to:*
1. *a. Waive any accumulated amount of tax credits; and*
 - b. Be allowed a nonrefundable and nontransferable tax credit up to twenty-five thousand (25,000) barrels of distilled spirits in a bonded warehouse or premises for each taxable year. The tax credit shall be equal to one hundred percent (100%) of the tax assessed under KRS 132.160 and paid by the taxpayer under KRS 132.180 on a timely basis on those barrels; or*
 2. *a. Waive all future tax credits allowed under this section; and*
 - b. Be allowed a refundable tax credit on multiple taxes as described in subsection (7) of this section.*
- (c) *Any election made under this subsection shall be made on a form prescribed by the department and shall be submitted to the department on or before the due date of the tax return, including an extension of time to file a return under KRS 141.170, for the taxpayer's first taxable year beginning on or after January 1, 2024.*
- (d) *Any election made under this subsection shall be binding on both the department and the taxpayer and shall be irrevocable.*
- ~~(3)(2)~~ The amount of distilled spirits credit allowed under subsection (1) of this section shall be used only for capital improvements at the premises of the distiller licensed pursuant to KRS Chapter 243. As used in this subsection, "capital improvement" means any costs associated with:
- (a) Construction, replacement, or remodeling of warehouses or facilities;
 - (b) Purchases of barrels and pallets used for the storage and aging of distilled spirits in maturing warehouses;
 - (c) Acquisition, construction, or installation of equipment for the use in the manufacture, bottling, or shipment of distilled spirits;
 - (d) Addition or replacement of access roads or parking facilities; and
 - (e) Construction, replacement, or remodeling of facilities to market or promote tourism, including but not limited to a visitor's center.
- ~~(4)(3)~~ The distilled spirits credit allowed under subsection (1) of this section:
- (a) May be accumulated for multiple taxable years;
 - (b) Shall be claimed on the return of the taxpayer filed for the taxable year during which the credits were used pursuant to subsection ~~(3)(2)~~ of this section; and
 - (c) Shall not include:
 1. Any delinquent tax paid to the Commonwealth; or
 2. Any interest, fees, or penalty paid to the Commonwealth.
- ~~(5)(4)~~ (a) Before the distilled spirits credit ***allowed under subsection (1) of this section*** shall be ***claimed***~~allowed~~ on any return, the capital improvements required by subsection ~~(3)(2)~~ of this section shall be completed and specifically associated with the credit allowed on the return.
- (b) The amount of distilled spirits credit allowed shall be recaptured if the capital improvement associated with the credit is sold or otherwise disposed of prior to the exhaustion of the useful life of the asset for Kentucky depreciation purposes.
- (c) If the allowed credit is associated with multiple capital improvements, and not all capital improvements are sold or otherwise disposed of, the distilled spirits credit shall be prorated based on the cost of the capital improvement sold over the total cost of all improvements associated with the credit.

- (6)~~(5)~~ If the taxpayer is a pass-through entity, the taxpayer may apply the *credits allowed in subsection (1) or (2) of this section*~~[credit]~~ against the limited liability entity tax imposed by KRS 141.0401, and shall pass the *credits*~~[credit]~~ through to its members, partners, or shareholders in the same proportion as the distributive share of income or loss is passed through.
- (7) (a) *For taxable years beginning on or after January 1, 2026, a taxpayer making an election under subsection (2)(b)2. of this section is entitled to a refundable tax credit if the taxpayer:*
1. *Makes a capital investment of at least twenty million dollars (\$20,000,000) within an LMI; and*
 2. *Creates ten (10) or more new jobs within an LMI.*
- (b) *Upon certification to the department that the capital investment has been made and the jobs have been created within an LMI, the department shall:*
1. *Award a refundable credit that is:*
 - a. *Equal to no more than fifty percent (50%) of the accumulated amount;*
 - b. *Based on the sales and use tax paid on the purchase of tangible personal property used in the capital investment within the LMI and the withholding of tax from wages paid by the taxpayer as an employer under KRS 141.310 from employees hired to fill the jobs created within the LMI; and*
 - c. *Refunded over a period, the earlier of which is:*
 - a. *Fifteen (15) years; or*
 - b. *Until the amount determined in subdivision a. of this subparagraph has been utilized through the sales and use tax and withholding tax remitted; and*
 2. *Reduce the taxpayer's accumulated amount by the amount refunded.*
- (c) 1. *Any portion of the fifty percent (50%) of the accumulated amount remaining on or after March 1, 2039, shall lapse.*
2. *No later than June 15, 2039, the department shall report to the Interim Joint Committee on Appropriations and Revenue the total of the lapsing accumulated amounts and the number of taxpayers related to the lapsing accumulated total.*
- (d) 1. *To qualify for the portion of the refundable credit for sales and use tax paid under paragraph (b) of this subsection, the taxpayer shall:*
- a. *Collect from the purchasers of tangible personal property used in the construction, replacement, or remodeling of warehouses or facilities all documentation relating to the payment of sales or use tax;*
 - b. *Document sales and use tax paid directly by the taxpayer; and*
 - c. *File an application for refund of the sales or use tax paid as reflected in the documentation collected.*
2. *To qualify for the portion of the refundable credit for tax withheld from employees, the taxpayer shall document the amount withheld and file an application for a refund as prescribed by the department.*
- (e) *Requests for a refund shall be filed annually and shall cover purchases made or the amount withheld from employees during the immediately preceding year. Requests for a refund shall be filed in the manner directed by the department.*
- (f) *Interest shall not be allowed or paid on any refund made under this section.*
- (g) *To fulfill the requirements for a sales and use tax refund, the taxpayer shall execute information-sharing agreements prescribed by the department with contractors, vendors, and other related parties to verify construction material costs.*
- (8) (a) *Notwithstanding subsection (7) of this section, for taxable years beginning on or after January 1, 2026, the taxpayer's accumulated amount shall be reduced by the taxpayer's base reduction percentage, including a recapture of any credits which have previously been refunded.*

(b) *If a business-wide reduction or extraordinary event occurs, any taxpayer may apply to the secretary of the Finance and Administration Cabinet for a waiver of the reduction in the accumulated amount.*

~~(9)(6)~~ The department may promulgate an administrative regulation pursuant to KRS Chapter 13A to implement the allowable ~~credits~~~~[credit]~~ under this section, require the filing of forms designed by the department, and require specific information for the evaluation of the ~~credits~~~~[credit]~~ taken by any taxpayer.

~~(10)(7)~~ No later than September 1, 2016, and annually thereafter, the department shall report to the Interim Joint Committee on Appropriations and Revenue:

- (a) The name of each taxpayer taking the ~~credits~~~~[credit]~~ permitted by subsection (1) *or* (2) of this section;
- (b) The amount of ~~credits~~~~[credit]~~ taken by that taxpayer;~~and~~
- (c) The type of capital improvement made for which the credit *allowed under subsection (1) of this section* is claimed;
- (d) *Whether the credits offset tax liability or were refunded to the taxpayer;*
- (e) *The type of tax that was refunded to the taxpayer; and*
- (f) *The amount of tax refunded for each type of tax.*

➔SECTION 4. A NEW SECTION OF KRS 157.310 TO 157.440 IS CREATED TO READ AS FOLLOWS:

The portion of the assessed value of distilled spirits which equates to the percentage of the otherwise applicable tax rate that does not apply under subsection (3) of Section 1 of this Act shall not be included in the calculation of the local effort required for Support Education Excellence in Kentucky or the tax rate-setting process in KRS Chapter 160.

➔Section 5. KRS 139.010, as amended by 2023 Ky. Acts ch. 92, sec. 6, is amended to read as follows:

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

- (1) (a) "Admissions" means the fees paid for:
 - 1. The right of entrance to a display, program, sporting event, music concert, performance, play, show, movie, exhibit, fair, or other entertainment or amusement event or venue; and
 - 2. The privilege of using facilities or participating in an event or activity, including but not limited to:
 - a. Bowling centers;
 - b. Skating rinks;
 - c. Health spas;
 - d. Swimming pools;
 - e. Tennis courts;
 - f. Weight training facilities;
 - g. Fitness and recreational sports centers; and
 - h. Golf courses, both public and private;

regardless of whether the fee paid is per use or in any other form, including but not limited to an initiation fee, monthly fee, membership fee, or combination thereof.
- (b) "Admissions" does not include:
 - 1. Any fee paid to enter or participate in a fishing tournament; or
 - 2. Any fee paid for the use of a boat ramp for the purpose of allowing boats to be launched into or hauled out from the water;
- (2) "Advertising and promotional direct mail" means direct mail the primary purpose of which is to attract public attention to a product, person, business, or organization, or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization. As used in this definition, "product" means tangible personal property, an item transferred electronically, or a service;

- (3) "Business" includes any activity engaged in by any person or caused to be engaged in by that person with the object of gain, benefit, or advantage, either direct or indirect;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5)
 - (a) "Cosmetic surgery services" means modifications to all areas of the head, neck, and body to enhance appearance through surgical and medical techniques.
 - (b) "Cosmetic surgery services" does not include surgery services that are medically necessary to reconstruct or correct dysfunctional areas of the face and body due to birth disorders, trauma, burns, or disease;
- (6) "Department" means the Department of Revenue;
- (7)
 - (a) "Digital audio-visual works" means a series of related images which, when shown in succession, impart an impression of motion, with accompanying sounds, if any.
 - (b) "Digital audio-visual works" includes movies, motion pictures, musical videos, news and entertainment programs, and live events.
 - (c) "Digital audio-visual works" shall not include video greeting cards, video games, and electronic games;
- (8)
 - (a) "Digital audio works" means works that result from the fixation of a series of musical, spoken, or other sounds.
 - (b) "Digital audio works" includes ringtones, recorded or live songs, music, readings of books or other written materials, speeches, or other sound recordings.
 - (c) "Digital audio works" shall not include audio greeting cards sent by electronic mail;
- (9)
 - (a) "Digital books" means works that are generally recognized in the ordinary and usual sense as books, including any literary work expressed in words, numbers, or other verbal or numerical symbols or indicia if the literary work is generally recognized in the ordinary or usual sense as a book.
 - (b) "Digital books" shall not include digital audio-visual works, digital audio works, periodicals, magazines, newspapers, or other news or information products, chat rooms, or Web logs;
- (10)
 - (a) "Digital code" means a code which provides a purchaser with a right to obtain one (1) or more types of digital property. A "digital code" may be obtained by any means, including electronic mail messaging or by tangible means, regardless of the code's designation as a song code, video code, or book code.
 - (b) "Digital code" shall not include a code that represents:
 - 1. A stored monetary value that is deducted from a total as it is used by the purchaser; or
 - 2. A redeemable card, gift card, or gift certificate that entitles the holder to select specific types of digital property;
- (11) (a) "Digital property" means any of the following which is transferred electronically:
 - 1. Digital audio works;
 - 2. Digital books;
 - 3. Finished artwork;
 - 4. Digital photographs;
 - 5. Periodicals;
 - 6. Newspapers;
 - 7. Magazines;
 - 8. Video greeting cards;
 - 9. Audio greeting cards;
 - 10. Video games;
 - 11. Electronic games; or
 - 12. Any digital code related to this property.

- (b) "Digital property" shall not include digital audio-visual works or satellite radio programming;
- (12) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipient.
- (b) "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail retailer for inclusion in the package containing the printed material.
- (c) "Direct mail" does not include multiple items of printed material delivered to a single address;
- (13) "Directly used in the manufacturing or industrial processing process" means the process that commences with the movement of raw materials from storage into a continuous, unbroken, integrated process and ends when the finished product is packaged and ready for sale;
- (14) (a) "Executive employee recruitment services" means services provided by a person to locate potential candidates to fill open senior-level management positions.
- (b) "Executive employee recruitment services" includes but is not limited to making a detailed list of client requirements, researching and identifying potential candidates, performing pre-screening interviews, and providing contract and salary negotiations;
- (15) (a) "Extended warranty services" means services provided through a service contract agreement between the contract provider and the purchaser where the purchaser agrees to pay compensation for the contract and the provider agrees to repair, replace, support, or maintain tangible personal property, digital property, real property, or prewritten computer software access services according to the terms of the contract.
- (b) "Extended warranty services" does not include the sale of a service contract agreement for tangible personal property to be used by a small telephone utility as defined in KRS 278.516 or a Tier III CMRS provider as defined in KRS 65.7621 to deliver communications services as defined in KRS 136.602 or broadband;
- (16) (a) "Finished artwork" means final art that is used for actual reproduction by photomechanical or other processes or for display purposes.
- (b) "Finished artwork" includes:
 - 1. Assemblies;
 - 2. Charts;
 - 3. Designs;
 - 4. Drawings;
 - 5. Graphs;
 - 6. Illustrative materials;
 - 7. Lettering;
 - 8. Mechanicals;
 - 9. Paintings; and
 - 10. Paste-ups;
- (17) (a) "Gross receipts" and "sales price" mean the total amount or consideration, including cash, credit, property, and services, for which tangible personal property, digital property, or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:
 - 1. The retailer's cost of the tangible personal property, digital property, or services sold;
 - 2. The cost of the materials used, labor or service cost, interest, losses, all costs of transportation to the retailer, all taxes imposed on the retailer, or any other expense of the retailer;
 - 3. Charges by the retailer for any services necessary to complete the sale;

4. Delivery charges, which are defined as charges by the retailer for the preparation and delivery to a location designated by the purchaser including transportation, shipping, postage, handling, crating, and packing;
 5. Any amount for which credit is given to the purchaser by the retailer, other than credit for tangible personal property or digital property traded when the tangible personal property or digital property traded is of like kind and character to the property purchased and the property traded is held by the retailer for resale; and
 6. The amount charged for labor or services rendered in installing or applying the tangible personal property, digital property, or service sold.
- (b) "Gross receipts" and "sales price" shall include consideration received by the retailer from a third party if:
1. The retailer actually receives consideration from a third party and the consideration is directly related to a price reduction or discount on the sale to the purchaser;
 2. The retailer has an obligation to pass the price reduction or discount through to the purchaser;
 3. The amount of consideration attributable to the sale is fixed and determinable by the retailer at the time of the sale of the item to the purchaser; and
 4. One (1) of the following criteria is met:
 - a. The purchaser presents a coupon, certificate, or other documentation to the retailer to claim a price reduction or discount where the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;
 - b. The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser; or
 - c. The purchaser identifies himself or herself to the retailer as a member of a group or organization entitled to a price reduction or discount. A "preferred customer" card that is available to any patron does not constitute membership in such a group.
- (c) "Gross receipts" and "sales price" shall not include:
1. Discounts, including cash, term, or coupons that are not reimbursed by a third party and that are allowed by a retailer and taken by a purchaser on a sale;
 2. Interest, financing, and carrying charges from credit extended on the sale of tangible personal property, digital property, or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;
 3. Any taxes legally imposed directly on the purchaser that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; or
 4. Local alcohol regulatory license fees authorized under KRS 243.075 that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.
- (d) As used in this subsection, "third party" means a person other than the purchaser;
- (18) "In this state" or "in the state" means within the exterior limits of the Commonwealth and includes all territory within these limits owned by or ceded to the United States of America;
- (19) "Industrial processing" includes:
- (a) Refining;
 - (b) Extraction of minerals, ores, coal, clay, stone, petroleum, or natural gas;
 - (c) Mining, quarrying, fabricating, and industrial assembling;
 - (d) The processing and packaging of raw materials, in-process materials, and finished products; and
 - (e) The processing and packaging of farm and dairy products for sale;

- (20) (a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental shall include future options to:
1. Purchase the property; or
 2. Extend the terms of the agreement and agreements covering trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. sec. 7701(h)(1).
- (b) "Lease or rental" shall not include:
1. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
 2. A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of the required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100) or one percent (1%) of the total required payments; or
 3. Providing tangible personal property and an operator for the tangible personal property for a fixed or indeterminate period of time. To qualify for this exclusion, the operator must be necessary for the equipment to perform as designed, and the operator must do more than maintain, inspect, or setup the tangible personal property.
- (c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;
- (21) (a) "Lobbying services" means the act of promoting or securing passage of legislation or an attempt to influence or sway a public official or other public servant toward a desired action, including but not limited to the support of or opposition to a project or the passage, amendment, defeat, approval, or veto of any legislation, regulation, rule, or ordinance;
- (b) "Lobbying services" includes but is not limited to the performance of activities described as executive agency lobbying activities as defined in KRS 11A.201, activities described under the definition of lobby in KRS 6.611, and any similar activities performed at the local, state, or federal levels;
- (22) (a) "Machinery for new and expanded industry" means machinery:
1. Directly used in the manufacturing or industrial processing process of:
 - a. Tangible personal property at a plant facility;
 - b. Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030 that includes a retail establishment on the premises; or
 - c. Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040 that includes a retail establishment;
 2. Which is incorporated for the first time into:
 - a. A plant facility established in this state; or
 - b. Licensed premises located in this state; and
 3. Which does not replace machinery in the plant facility or licensed premises unless that machinery purchased to replace existing machinery:
 - a. Increases the consumption of recycled materials at the plant facility by not less than ten percent (10%);
 - b. Performs different functions;
 - c. Is used to manufacture a different product; or
 - d. Has a greater productive capacity, as measured in units of production, than the machinery being replaced.

- (b) "Machinery for new and expanded industry" does not include repair, replacement, or spare parts of any kind, regardless of whether the purchase of repair, replacement, or spare parts is required by the manufacturer or seller as a condition of sale or as a condition of warranty;
- (23) "Manufacturing" means any process through which material having little or no commercial value for its intended use before processing has appreciable commercial value for its intended use after processing by the machinery;
- (24) "Marketplace" means any physical or electronic means through which one (1) or more retailers may advertise and sell tangible personal property, digital property, or services, or lease tangible personal property or digital property, such as a catalog, Internet Web site, or television or radio broadcast, regardless of whether the tangible personal property, digital property, or retailer is physically present in this state;
- (25) (a) "Marketplace provider" means a person, including any affiliate of the person, that facilitates a retail sale by satisfying subparagraphs 1. and 2. of this paragraph as follows:
 - 1. The person directly or indirectly:
 - a. Lists, makes available, or advertises tangible personal property, digital property, or services for sale by a marketplace retailer in a marketplace owned, operated, or controlled by the person;
 - b. Facilitates the sale of a marketplace retailer's product through a marketplace by transmitting or otherwise communicating an offer or acceptance of a retail sale of tangible personal property, digital property, or services between a marketplace retailer and a purchaser in a forum including a shop, store, booth, catalog, Internet site, or similar forum;
 - c. Owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects marketplace retailers to purchasers for the purpose of making retail sales of tangible personal property, digital property, or services;
 - d. Provides a marketplace for making retail sales of tangible personal property, digital property, or services, or otherwise facilitates retail sales of tangible personal property, digital property, or services, regardless of ownership or control of the tangible personal property, digital property, or services, that are the subject of the retail sale;
 - e. Provides software development or research and development activities related to any activity described in this subparagraph, if the software development or research and development activities are directly related to the physical or electronic marketplace provided by a marketplace provider;
 - f. Provides or offers fulfillment or storage services for a marketplace retailer;
 - g. Sets prices for a marketplace retailer's sale of tangible personal property, digital property, or services;
 - h. Provides or offers customer service to a marketplace retailer or a marketplace retailer's customers, or accepts or assists with taking orders, returns, or exchanges of tangible personal property, digital property, or services sold by a marketplace retailer; or
 - i. Brands or otherwise identifies sales as those of the marketplace provider; and
 - 2. The person directly or indirectly:
 - a. Collects the sales price or purchase price of a retail sale of tangible personal property, digital property, or services;
 - b. Provides payment processing services for a retail sale of tangible personal property, digital property, or services;
 - c. Through terms and conditions, agreements, or arrangements with a third party, collects payment in connection with a retail sale of tangible personal property, digital property, or services from a purchaser and transmits that payment to the marketplace retailer, regardless of whether the person collecting and transmitting the payment receives compensation or other consideration in exchange for the service; or

- d. Provides a virtual currency that purchasers are allowed or required to use to purchase tangible personal property, digital property, or services.
- (b) "Marketplace provider" includes but is not limited to a person that satisfies the requirements of this subsection through the ownership, operation, or control of a digital distribution service, digital distribution platform, online portal, or application store;
- (26) "Marketplace retailer" means a seller that makes retail sales through any marketplace owned, operated, or controlled by a marketplace provider;
- (27) (a) "Occasional sale" includes:
 - 1. A sale of tangible personal property or digital property not held or used by a seller in the course of an activity for which he or she is required to hold a seller's permit, provided such sale is not one (1) of a series of sales sufficient in number, scope, and character to constitute an activity requiring the holding of a seller's permit. In the case of the sale of the entire, or a substantial portion of the nonretail assets of the seller, the number of previous sales of similar assets shall be disregarded in determining whether or not the current sale or sales shall qualify as an occasional sale; or
 - 2. Any transfer of all or substantially all the tangible personal property or digital property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.
- (b) For the purposes of this subsection, stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the tangible personal property or digital property of such corporation or other entity;
- (28) (a) "Other direct mail" means any direct mail that is not advertising and promotional direct mail, regardless of whether advertising and promotional direct mail is included in the same mailing.
- (b) "Other direct mail" includes but is not limited to:
 - 1. Transactional direct mail that contains personal information specific to the addressee, including but not limited to invoices, bills, statements of account, and payroll advices;
 - 2. Any legally required mailings, including but not limited to privacy notices, tax reports, and stockholder reports; and
 - 3. Other nonpromotional direct mail delivered to existing or former shareholders, customers, employees, or agents, including but not limited to newsletters and informational pieces.
- (c) "Other direct mail" does not include the development of billing information or the provision of any data processing service that is more than incidental to the production of printed material;
- (29) "Person" includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;
- (30) "Permanent," as the term applies to digital property, means perpetual or for an indefinite or unspecified length of time;
- (31) (a) "Photography and photofinishing services" means:
 - 1. The taking, developing, or printing of an original photograph; or
 - 2. Image editing, including shadow removal, tone adjustments, vertical and horizontal alignment and cropping, composite image creation, formatting, watermarking printing, and delivery of an original photograph in the form of tangible personal property, digital property, or other media.
- (b) "Photography and photofinishing services" does not include photography services necessary for medical or dental health;
- (32) "Plant facility" means a single location that is exclusively dedicated to manufacturing or industrial processing activities. A location shall be deemed to be exclusively dedicated to manufacturing or industrial processing activities even if retail sales are made there, provided that the retail sales are incidental to the manufacturing or industrial processing activities occurring at the location. The term "plant facility" shall not include any restaurant, grocery store, shopping center, or other retail establishment;

- (33) (a) "Prewritten computer software" means:
1. Computer software, including prewritten upgrades, that are not designed and developed by the author or other creator to the specifications of a specific purchaser;
 2. Software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the original purchaser; or
 3. Any portion of prewritten computer software that is modified or enhanced in any manner, where the modification or enhancement is designed and developed to the specifications of a specific purchaser, unless there is a reasonable, separately stated charge on an invoice or other statement of the price to the purchaser for the modification or enhancement.
- (b) When a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of the modifications or enhancements the person actually made.
- (c) The combining of two (2) or more prewritten computer software programs or portions thereof does not cause the combination to be other than prewritten computer software;
- (34) "Prewritten computer software access services" means the right of access to prewritten computer software where the object of the transaction is to use the prewritten computer software while possession of the prewritten computer software is maintained by the seller or a third party, wherever located, regardless of whether the charge for the access or use is on a per use, per user, per license, subscription, or some other basis;
- (35) (a) "Purchase" means any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:
1. Tangible personal property;
 2. An extended warranty service;
 3. Digital property transferred electronically; or
 4. Services included in KRS 139.200;
- for a consideration.
- (b) "Purchase" includes:
1. When performed outside this state or when the customer gives a resale certificate, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting;
 2. A transaction whereby the possession of tangible personal property or digital property is transferred but the seller retains the title as security for the payment of the price; and
 3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the customer, or of any publication;
- (36) "Recycled materials" means materials which have been recovered or diverted from the solid waste stream and reused or returned to use in the form of raw materials or products;
- (37) "Recycling purposes" means those activities undertaken in which materials that would otherwise become solid waste are collected, separated, or processed in order to be reused or returned to use in the form of raw materials or products;
- (38) "Remote retailer" means a retailer with no physical presence in this state;
- (39) (a) "Repair, replacement, or spare parts" means any tangible personal property used to maintain, restore, mend, or repair machinery or equipment.
- (b) "Repair, replacement, or spare parts" does not include machine oils, grease, or industrial tools;
- (40) (a) "Retailer" means:
1. Every person engaged in the business of making retail sales of tangible personal property, digital property, or furnishing any services in a retail sale included in KRS 139.200;

2. Every person engaged in the business of making sales at auction of tangible personal property or digital property owned by the person or others for storage, use or other consumption, except as provided in paragraph (c) of this subsection;
 3. Every person making more than two (2) retail sales of tangible personal property, digital property, or services included in KRS 139.200 during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy;
 4. Any person conducting a race meeting under the provision of KRS Chapter 230, with respect to horses which are claimed during the meeting.
- (b) When the department determines that it is necessary for the efficient administration of this chapter to regard any salesmen, representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property, digital property, or services sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors or employers, the department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this chapter.
- (c) 1. Any person making sales at a charitable auction for a qualifying entity shall not be a retailer for purposes of the sales made at the charitable auction if:
- a. The qualifying entity, not the person making sales at the auction, is sponsoring the auction;
 - b. The purchaser of tangible personal property at the auction directly pays the qualifying entity sponsoring the auction for the property and not the person making the sales at the auction; and
 - c. The qualifying entity, not the person making sales at the auction, is responsible for the collection, control, and disbursement of the auction proceeds.
2. If the conditions set forth in subparagraph 1. of this paragraph are met, the qualifying entity sponsoring the auction shall be the retailer for purposes of the sales made at the charitable auction.
3. For purposes of this paragraph, "qualifying entity" means a resident:
- a. Church;
 - b. School;
 - c. Civic club; or
 - d. Any other nonprofit charitable, religious, or educational organization;
- (41) "Retail sale" means any sale, lease, or rental for any purpose other than resale, sublease, or subrent;
- (42) (a) "Ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication.
- (b) "Ringtones" shall not include ringback tones or other digital files that are not stored on the purchaser's communications device;
- (43) (a) "Sale" means:
1. The furnishing of any services included in KRS 139.200;
 2. Any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of:
 - a. Tangible personal property; or
 - b. Digital property transferred electronically;
 for a consideration.
- (b) "Sale" includes but is not limited to:

1. The producing, fabricating, processing, printing, or imprinting of tangible personal property or digital property for a consideration for purchasers who furnish, either directly or indirectly, the materials used in the producing, fabricating, processing, printing, or imprinting;
 2. A transaction whereby the possession of tangible personal property or digital property is transferred, but the seller retains the title as security for the payment of the price; and
 3. A transfer for a consideration of the title or possession of tangible personal property or digital property which has been produced, fabricated, or printed to the special order of the purchaser.
- (c) This definition shall apply regardless of the classification of a transaction under generally accepted accounting principles, the Internal Revenue Code, or other provisions of federal, state, or local law;
- (44) "Seller" includes every person engaged in the business of selling tangible personal property, digital property, or services of a kind, the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, and every person engaged in making sales for resale;
- (45) (a) "Storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property, digital property, or prewritten computer software access services purchased from a retailer.
- (b) "Storage" does not include the keeping, retaining, or exercising any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state;
- (46) "Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses and includes natural, artificial, and mixed gas, electricity, water, steam, and prewritten computer software;
- (47) "Taxpayer" means any person liable for tax under this chapter;
- (48) "Telemarketing services" means services provided via telephone, facsimile, electronic mail, text messages, or other modes of communications~~[, including but not limited to various forms of social media,]~~ to another person, which are unsolicited by that person, for the purposes of:
- (a)
 1. Promoting products or services;
 2. Taking orders; or
 3. Providing information or assistance regarding the products or services; or
 - (b) Soliciting contributions;
- (49) "Transferred electronically" means accessed or obtained by the purchaser by means other than tangible storage media; and
- (50) (a) "Use" includes the exercise of:
1. Any right or power over tangible personal property or digital property incident to the ownership of that property, or by any transaction in which possession is given, or by any transaction involving digital property or tangible personal property where the right of access is granted; or
 2. Any right or power to benefit from any services subject to tax under KRS 139.200(2)(p) to (ax).
- (b) "Use" does not include the keeping, retaining, or exercising any right or power over:
1. Tangible personal property or digital property for the purpose of:
 - a. Selling tangible personal property or digital property in the regular course of business; or
 - b. Subsequently transporting tangible personal property outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into, other tangible personal property to be transported outside the state and thereafter used solely outside the state; or
 2. Prewritten computer software access services purchased for use outside the state and transferred electronically outside the state for use thereafter solely outside the state.

➔Section 6. KRS 141.0205, as amended by 2023 Ky. Acts ch. 92, sec. 22, is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) The limited liability entity tax credit permitted by KRS 141.0401;
 - (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
 - (c) The qualified farming operation credit permitted by KRS 141.412;
 - (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (e) The health insurance credit permitted by KRS 141.062;
 - (f) The tax paid to other states credit permitted by KRS 141.070;
 - (g) The credit for hiring the unemployed permitted by KRS 141.065;
 - (h) The recycling or composting equipment credit permitted by KRS 141.390;
 - (i) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The research facilities credit permitted by KRS 141.395;
 - (k) The employer High School Equivalency Diploma program incentive credit permitted under KRS 151B.402;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The clean coal incentive credit permitted by KRS 141.428;
 - (o) The ethanol credit permitted by KRS 141.4242;
 - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (q) The energy efficiency credits permitted by KRS 141.436;
 - (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (s) The Endow Kentucky credit permitted by KRS 141.438;
 - (t) The New Markets Development Program credit permitted by KRS 141.434;
 - (u) The distilled spirits credit permitted by KRS 141.389;
 - (v) The angel investor credit permitted by KRS 141.396;
 - (w) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;
 - (x) The inventory credit permitted by KRS 141.408; and
 - (y) The renewable chemical production credit permitted by KRS 141.4231.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
 - (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069;
 - (d) The household and dependent care credit permitted by KRS 141.067;
 - (e) The income gap credit permitted by KRS 141.066; *and*

- (f) The Education Opportunity Account Program tax credit permitted by KRS 141.522~~[-and~~
- ~~(g) The pass-through entity tax credit permitted by Section 16 of this Act].~~
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and 171.397(1)(b);
 - (d) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018, or on or after January 1, 2022;
 - (e) The development area tax credit permitted by KRS 141.398;~~[-and]~~
 - (f) The decontamination tax credit permitted by KRS 141.419; *and*
 - (g) *The pass-through entity tax credit permitted by Section 9 of this Act.***
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.3841, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and 154.12-2088;
 - (b) The qualified farming operation credit permitted by KRS 141.412;
 - (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
 - (d) The health insurance credit permitted by KRS 141.062;
 - (e) The unemployment credit permitted by KRS 141.065;
 - (f) The recycling or composting equipment credit permitted by KRS 141.390;
 - (g) The coal conversion credit permitted by KRS 141.041;
 - (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (i) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (j) The research facilities credit permitted by KRS 141.395;
 - (k) The employer High School Equivalency Diploma program incentive credit permitted by KRS 151B.402;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
 - (n) The clean coal incentive credit permitted by KRS 141.428;
 - (o) The ethanol credit permitted by KRS 141.4242;
 - (p) The cellulosic ethanol credit permitted by KRS 141.4244;
 - (q) The energy efficiency credits permitted by KRS 141.436;
 - (r) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;
 - (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
 - (t) The railroad expansion credit permitted by KRS 141.386;
 - (u) The Endow Kentucky credit permitted by KRS 141.438;

- (v) The New Markets Development Program credit permitted by KRS 141.434;
 - (w) The distilled spirits credit permitted by KRS 141.389;
 - (x) The film industry credit permitted by KRS 141.383 for applications approved on or after April 27, 2018, but before January 1, 2022;
 - (y) The inventory credit permitted by KRS 141.408;
 - (z) The renewable chemical production tax credit permitted by KRS 141.4231; and
 - (aa) The Education Opportunity Account Program tax credit permitted by KRS 141.522.
- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:
- (a) The corporation estimated tax payment credit permitted by KRS 141.044;
 - (b) The certified rehabilitation credit permitted by KRS 171.3961, 171.3963, and 171.397(1)(b);
 - (c) The film industry tax credit permitted by KRS 141.383 for applications approved prior to April 27, 2018, or on or after January 1, 2022;~~[and]~~
 - (d) The decontamination tax credit permitted by KRS 141.419; *and*
 - (e) ***The pass-through entity tax credit permitted by Section 9 of this Act.***

➔Section 7. KRS 141.070, as amended by 2023 Ky. Acts ch. 92, sec. 23, is amended to read as follows:

- (1) Whenever an individual who is a resident of this state has become liable for income tax to another state upon all or any part of the individual's net income for the taxable year, derived from sources without this state and subject to taxation under this chapter, the amount of income tax payable under this chapter shall be credited on the return with the income tax paid by to the other state, upon producing to the proper assessing officer satisfactory evidence of the fact of the payment, except that application of any credits shall not operate to reduce the tax payable under this chapter to an amount less than would have been payable were the income from the other state ignored.
- (2) An individual who is not a resident of this state shall not be liable for any income tax under KRS 141.020(4) if the laws of the state of which the individual was a resident at the time the income was earned in this state contained a reciprocal provision under which nonresidents were exempted from gross or net income taxes to the other state, if the state of residence of the nonresident individual allowed a similar exemption to resident individuals of this state. The exemption authorized by this subsection shall in no manner preclude the department from requiring any information reports under KRS 141.150(2).
- (3) As used in this section, "state" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.
- (4) Any resident ***entity owner of an electing entity, as those terms are defined in Section 9 of this Act,***~~[individual that is a partner, member, or shareholder of a pass-through entity]~~ doing business in another state in which the tax is assessed and paid at the entity level shall be allowed a credit in accordance with subsection (1) of this section. The credit shall be based on the ***entity owner's***~~[individual's]~~ distributive share of the ***electing***~~[pass-through]~~ entity's items of income, loss, deduction, and credit.

➔Section 8. KRS 141.206, as amended by 2023 Ky. Acts ch. 92, sec. 24, is amended to read as follows:

- (1) Every pass-through entity doing business in this state shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a copy of its federal tax return with the form prescribed and furnished by the department.
- (2)
 - (a) Pass-through entities shall calculate net income in the same manner as in the case of an individual under KRS 141.019 and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code.
 - (b) Computation of net income under this section and the computation of the partner's, member's, or shareholder's distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.

- (3) Individuals, estates, trusts, or corporations doing business in this state as a partner, member, or shareholder in a pass-through entity shall be liable for income tax only in their individual, fiduciary, or corporate capacities, and no income tax shall be assessed against the net income of any pass-through entity, except as required:
- (a) For S corporations under KRS 141.040;
 - (b) For a partnership level audit under KRS 141.211; and
 - (c) For a pass-through entity making an election under *Section 9 of this Act*~~[Section 16 of this Act]~~.
- (4) (a) Every pass-through entity required to file a return under subsection (1) of this section, except publicly traded partnerships as described in KRS 141.0401(6)(a)18. and (b)14., shall withhold Kentucky income tax on the distributive share, whether distributed or undistributed, of each nonresident individual partner, member, or shareholder.
- (b) Withholding shall be at the maximum rate provided in KRS 141.020.
- (5) (a) Every pass-through entity required to withhold Kentucky income tax as provided by subsection (4) of this section shall pay estimated tax for the taxable year, if for a nonresident individual partner, member, or shareholder, the estimated tax liability can reasonably be expected to exceed five hundred dollars (\$500).
- (b) The payment of estimated tax shall contain the information and shall be filed as provided in KRS 141.207.
- (6) (a) If a pass-through entity demonstrates to the department that a partner, member, or shareholder has filed an appropriate tax return for the prior year with the department, then the pass-through entity shall not be required to withhold on that partner, member, or shareholder for the current year unless the exemption from withholding has been revoked pursuant to paragraph (b) of this subsection.
- (b) 1. An exemption from withholding shall be considered revoked if the partner, member, or shareholder does not file and pay all taxes due in a timely manner.
2. An exemption so revoked shall be reinstated only with permission of the department.
3. If a partner, member, or shareholder who has been exempted from withholding does not file a return or pay the tax due, the department may require the pass-through entity to pay to the department the amount that should have been withheld, up to the amount of the partner's, member's, or shareholder's ownership interest in the entity.
4. The pass-through entity shall be entitled to recover a payment made pursuant to this paragraph from the partner, member, or shareholder on whose behalf the payment was made.
- (7) In determining the tax under this chapter, a resident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity shall take into account the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, deduction, and credit.
- (8) In determining the tax under this chapter, a nonresident individual, estate, or trust that is a partner, member, or shareholder in a pass-through entity required to file a return under subsection (1) of this section shall take into account:
- (a) 1. If the pass-through entity is doing business only in this state, the partner's, member's, or shareholder's total distributive share of the pass-through entity's items of income, loss, and deduction; or
 2. If the pass-through entity is doing business both within and without this state, the partner's, member's, or shareholder's distributive share of the pass-through entity's items of income, loss, and deduction multiplied by the apportionment fraction of the pass-through entity as prescribed in subsection (11) of this section; and
- (b) The partner's, member's, or shareholder's total distributive share of credits of the pass-through entity.
- (9) A corporation that is subject to tax under KRS 141.040 and is a partner or member in a pass-through entity shall take into account the corporation's distributive share of the pass-through entity's items of income, loss, and deduction and:

- (a) 1. For taxable years beginning on or after January 1, 2007, but prior to January 1, 2018, shall include the proportionate share of the sales, property, and payroll of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and
 - 2. For taxable years beginning on or after January 1, 2018, shall include the proportionate share of the sales of the limited liability pass-through entity or general partnership in computing its own apportionment factor; and
 - (b) Credits from the partnership.
- (10) (a) If a pass-through entity is doing business both within and without this state, the pass-through entity shall compute and furnish to each partner, member, or shareholder the numerator and denominator of each factor of the apportionment fraction determined in accordance with subsection (11) of this section.
- (b) For purposes of determining an apportionment fraction under paragraph (a) of this subsection, if the pass-through entity is:
- 1. Doing business both within and without this state; and
 - 2. A partner or member in another pass-through entity;
- then the pass-through entity shall be deemed to own the pro rata share of the property owned or leased by the other pass-through entity, and shall also include its pro rata share of the other pass-through entity's payroll and sales.
- (c) The phrases "a partner or member in another pass-through entity" and "doing business both within and without this state" shall extend to each level of multiple-tiered pass-through entities.
- (d) The attribution to the pass-through entity of the pro rata share of property, payroll and sales from its role as a partner or member in another pass-through entity will also apply when determining the pass-through entity's ultimate apportionment factor for property, payroll and sales as required under subsection (11) of this section.
- (11) (a) For taxable years beginning prior to January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction, the numerator of which is the property factor, representing twenty-five percent (25%) of the fraction, plus the payroll factor, representing twenty-five percent (25%) of the fraction, plus the sales factor, representing fifty percent (50%) of the fraction, with each factor determined in the same manner as provided in KRS 141.901, and the denominator of which is four (4), reduced by the number of factors, if any, having no denominator, provided that if the sales factor has no denominator, then the denominator shall be reduced by two (2).
- (b) For taxable years beginning on or after January 1, 2018, a pass-through entity doing business within and without the state shall compute an apportionment fraction as provided in KRS 141.120.
- (12) Resident individuals, estates, or trusts that are partners in a partnership, members of a limited liability company electing partnership tax treatment for federal income tax purposes, owners of single member limited liability companies, or shareholders in an S corporation which does not do business in this state are subject to tax under KRS 141.020 on federal net income, gain, deduction, or loss passed through the partnership, limited liability company, or S corporation.
- (13) An S corporation election made in accordance with Section 1362 of the Internal Revenue Code for federal tax purposes is a binding election for Kentucky tax purposes.
- (14) (a) Nonresident individuals shall not be taxable on investment income distributed by a qualified investment partnership. For purposes of this subsection, a "qualified investment partnership" means a pass-through entity that, during the taxable year, holds only investments that produce income that would not be taxable to a nonresident individual if held or owned individually.
- (b) A qualified investment partnership shall be subject to all other provisions relating to a pass-through entity under this section and shall not be subject to the tax imposed under KRS 141.040 or 141.0401.
- (15) (a) A pass-through entity shall deliver to the department a return upon a form prescribed by the department showing the total amounts paid or credited to its nonresident individual partners, members, or shareholders, the amount paid in accordance with this subsection, and any other information the department may require.

- (b) A pass-through entity shall furnish to its nonresident partner, member, or shareholder annually, but not later than the fifteenth day of the fourth month after the end of its taxable year, a record of the amount of tax paid on behalf of the partner, member, or shareholder on a form prescribed by the department.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section:

- (a) *"Authorized person" means any individual with the authority from the electing entity to bind the electing entity or sign returns on its behalf;*
- (b) *"Direct owner" means a partner, member, or shareholder that holds an interest directly in a pass-through entity;*
- (c) *"Electing entity" means a pass-through entity that makes an election under this section;*
- (d) *"Entity owner" means the direct or indirect owners of an electing entity receiving a proportionate share of the entity's income;*
- (e) *"Indirect owner" means a partner, member, or shareholder in a pass-through entity that holds an interest indirectly, or through another indirect partner, member, or shareholder in a pass-through entity; and*
- (f) *"Owner" means a direct or indirect partner, member, or shareholder of an electing entity and includes a beneficiary of an estate or trust.*

(2) (a) For taxable years beginning on or after January 1, 2022, an authorized person may elect annually, on behalf of the electing entity, to have the tax under KRS 141.020 imposed upon the electing entity and based upon the ordinary income and the separately stated items of income calculated under KRS 141.206.

- (b) 1. *All calculations for the return shall continue to be made as provided under KRS 141.206.*
2. *The election shall be made on a form prescribed by the department.*
- (c) *For taxable years beginning on or after January 1, 2023, the election may be made at any time during the taxable year or after the end of the taxable year, but not later than the:*
1. *Fifteenth day of the fourth month after the close of the taxable year; or*
2. *Fifteenth day of the tenth month after the close of the taxable year, if the return is filed under KRS 141.170.*

(d) For taxable years beginning on or after January 1, 2022, but before January 1, 2023:

1. *The election may be made after March 31, 2023, but shall be made before August 31, 2024;*
2. *As a result of the electing entity making the election as described in subparagraph 1. of this paragraph:*
- a. *No late payment, late filing, or other similar penalty under KRS 131.180 shall be imposed on an electing entity; and*
b. *No interest under KRS 131.183 shall apply to the tax paid by the electing entity.*
- (e) 1. *For taxable years beginning on or after January 1, 2022, but before January 1, 2024, an electing entity is not required to make estimated income tax payments and no estimated tax penalty shall be assessed under KRS 141.985.*
2. *For taxable years beginning on or after January 1, 2024, an electing entity shall be:*
- a. *Required to make estimated income tax payments if the provisions of KRS 141.305 are met; and*
b. *Subject to the estimated tax penalty under KRS 141.985 if the estimated income tax payments are not properly made.*

- (f) *The election, once made for a taxable year, is irrevocable and binding upon all entity owners.*

(3) For taxable years beginning on or after January 1, 2022, there shall be allowed a refundable pass-through entity tax credit which shall be:

- (a) *Equal to one hundred percent (100%) of the entity owner's proportionate share of the tax paid by the pass-through entity for the taxable year;*
 - (b) *Claimed against the tax imposed under KRS 141.020 on a return filed by the entity owner, with the ordering of credits as provided in Section 9 of this Act; and*
 - (c) *Based on the pro rata share of the entity owner's income from the pass-through entity.*
- (4) *An electing entity shall report to each direct owner of the entity the direct owner's proportionate share of the tax paid for the taxable year for purposes of the pass-through entity tax credit created in subsection (3) of this section.*
- (5) *The department shall prescribe forms and may promulgate administrative regulations as needed to administer this section.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this chapter or KRS 134.580, a refundable sales and use tax credit may be allowed under Section 3 of this Act related to the distilled spirits income tax credit.

➔Section 11. 2023 Ky. Acts ch. 92, sec. 16, is hereby repealed.

➔Section 12. Any settlement agreement between the Department of Revenue and any taxpayer having distilled spirits in a bonded warehouse, which is related to the ongoing assessment or collection of tax under Section 1 of this Act, shall not be considered null and void based upon the statutory changes in this Act but may be renegotiated by the parties to the settlement agreement and the renegotiated agreement shall be promulgated in an administrative regulation following the renegotiation process.

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

➔Section 14. Whereas an election for pass-through entity taxation provides a necessary option for partners, members, and shareholders currently filing tax returns across the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 31, 2023.

CHAPTER 149

(HB 338)

AN ACT relating to juror qualification.

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

➔Section 1. KRS 29A.080 is amended to read as follows:

- (1) The Chief Circuit Judge or one (1) or more judges of the court, the court's clerk, a deputy clerk, the court's administrator, or a deputy court administrator so designated by the Chief Circuit Judge shall determine on the basis of the information provided on the juror qualification form whether the prospective juror is disqualified for jury service for any of the reasons listed in subsection (2) of this section. This determination shall be entered in the space provided on the juror qualification form. The Chief Circuit Judge shall cause each disqualified juror to be immediately notified of the juror's disqualification.
- (2) A prospective juror is disqualified to serve on a jury if the juror:
 - (a) Is under eighteen (18) years of age;
 - (b) Is not a citizen of the United States;
 - (c) Is not a resident of the county;
 - (d) Has insufficient knowledge of the English language;

- (e) Has been previously convicted of a felony and has not been pardoned or received a restoration of civil rights by the Governor or other authorized person of the jurisdiction in which the person was convicted;
 - (f) Is presently under indictment;~~[-or]~~
 - (g) Has served on a jury within the time limitations set out under KRS 29A.130; *or*
 - (h) ***Is seventy (70) years of age or older and has requested in a space provided on the juror qualification form that he or she be excused from service for the period summoned.***
- (3) The Chief Circuit Judge may grant a permanent exemption based upon an individual's request and a finding by the Chief Circuit Judge of a permanent medical condition rendering the individual incapable of serving. The judge granting the permanent exemption shall notify the requesting person and the Administrative Office of the Courts. Upon receiving notification of a permanent exemption the Administrative Office of the Courts shall remove the person's name from the master list.
- (4) There shall be no waiver of these disqualifications, except that pursuant to the Federal Americans With Disabilities Act of 1990, an individual with a disability shall not be disqualified solely by reason of the disability. For the purposes of this section, "individual with a disability" means a person with a physical or mental impairment that substantially limits one (1) or more of the major life activities of the individual, a record of the impairment, or being regarded as having the impairment.

Signed by Governor March 31, 2023.

CHAPTER 150

(HB 349)

AN ACT relating to the treatment of sexually transmitted diseases.

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

➔Section 1. KRS 214.430 is amended to read as follows:

- (1) For the purposes of this section, unless the context requires otherwise:
- (a) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
 - (b) "Expedited partner therapy" means the prescribing or dispensing of antibiotic drugs to a practitioner's diagnosed patient's sexual partner or partners for the same disease without examination of that diagnosed patient's partner or partners;
 - (c) "Legend drug" means any drug defined by the Federal Food, Drug, and Cosmetic Act, as amended, and under which definition its label is required to bear the statement, "Caution: Federal law prohibits dispensing without prescription.";
 - (d) "Practitioner" means medical or osteopathic physicians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes advanced practice registered nurses as authorized in KRS 314.011 and 314.042 and physician assistants when administering or prescribing pharmaceutical agents as authorized in KRS 311.858; and
 - (e) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans.
- (2) Notwithstanding any other provision of law, a practitioner who is licensed to diagnose and prescribe drugs for ~~for~~ sexually transmitted ***infections, including but not limited to trichomoniasis, gonorrhea, or chlamydia*** infection, who diagnoses a sexually transmitted ~~infection~~ ~~[gonorrhea or chlamydia]~~ infection in a patient may provide expedited partner therapy for a sexually transmitted ~~infection~~ ~~[gonorrhea or chlamydia]~~ infection to that patient's sexual partner or partners.
- (3) A practitioner that provides expedited partner therapy shall:

- (a) Adhere to prescribing and dispensing standards for expedited partner therapy pursuant to the current United States Centers for Disease Control and Prevention Sexually Transmitted Diseases Treatment Guidelines for expedited partner therapy; and
 - (b) Utilize forms established by the Department for Public Health for patients and their sexual partner or partners explaining expedited partner therapy.
- (4) A practitioner who reasonably and in good faith renders expedited partner therapy in accordance with this section and administrative regulations promulgated by the board having professional jurisdiction shall not be subject to civil or criminal liability or be deemed to have engaged in unprofessional conduct.

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

- (1) Any person who violates KRS 311.250 shall be guilty of a violation.
- (2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his *or her* bond for a sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.
- (3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.
- (4) Each violation of KRS 311.560 shall constitute a Class D felony.
- (5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.
- (6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health and Family Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.
- (7) Each violation of KRS 311.375(1) shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.
- (8) Each violation of KRS 311.375(2) shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.
- (9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.
- (10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and
 - (b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.
- (11) (a)
 - 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.
 - 2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.
 - 3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.

- (b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.
 - (c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.
- (12) (a) Except as provided in KRS 311.732(12), any person who intentionally, knowingly, or recklessly performs an abortion upon a minor without obtaining the required consent pursuant to KRS 311.732 shall be guilty of a Class D felony.
- (b) Except as provided in paragraph (a) of this subsection, any person who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.
 - (c) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.
- (13) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.
- (14) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.
- (15) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.
- (16) Any person who violates KRS 311.770 shall be guilty of a Class D felony.
- (17) Except as provided in KRS 311.787(3), any person who intentionally violates KRS 311.787 shall be guilty of a Class D felony.
- (18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.
- (19) Except as provided in KRS 311.782(6), any person who intentionally violates KRS 311.782 shall be guilty of a Class D felony.
- (20) Any person who violates KRS 311.783(1) shall be guilty of a Class B misdemeanor.
- (21) Any person who violates KRS 311.7705(1) is guilty of a Class D felony.
- (22) Any person who violates KRS 311.7706(1) is guilty of a Class D felony.
- (23) Except as provided in KRS 311.731(7), any person who violates KRS 311.731(2) shall be guilty of a Class D felony.
- (24) Any physician, physician assistant, advanced practice registered nurse, nurse, or other healthcare provider who intentionally violates KRS 311.823(2) shall be guilty of a Class D felony. As used in this subsection, "healthcare provider" has the same meaning as in KRS 311.821.
- (25) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.
- (26) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.
- (27) Any administrator, officer, or employee of a publicly owned hospital or publicly owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.
- (28) Any person who violates KRS 311.905(3) shall be guilty of a violation.
- (29) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.
- (30) ~~[(a)—]Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor.~~
- ~~[(b)—Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.]~~
- (31) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

- (32) Any person who offers remuneration for any transplantable organ for use in transplantation into himself *or herself* shall be fined not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).
- (33) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.
- (34) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars (\$50,000) nor more than five hundred thousand dollars (\$500,000).
- (35) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000).
- (36) (a) Any physician or qualified technician who violates KRS 311.727 shall be fined not more than one hundred thousand dollars (\$100,000) for a first offense and not more than two hundred fifty thousand dollars (\$250,000) for each subsequent offense.
- (b) In addition to the fine, the court shall report the violation of any physician, in writing, to the Kentucky Board of Medical Licensure for such action and discipline as the board deems appropriate.
- (37) Any person who violates KRS 311.691 shall be guilty of a Class B misdemeanor for the first offense, and a Class A misdemeanor for a second or subsequent offense. In addition to any other penalty imposed for that violation, the board may, through the Attorney General, petition a Circuit Court to enjoin the person who is violating KRS 311.691 from practicing genetic counseling in violation of the requirements of KRS 311.690 to 311.700.
- (38) Any person convicted of violating KRS 311.728 shall be guilty of a Class D felony.
- (39) (a) A person who intentionally, knowingly, or recklessly violates KRS 311.7731 to 311.7739 is guilty of a Class D felony.
- (b) No criminal penalty may be assessed against a pregnant patient upon whom a drug-induced abortion is attempted, induced, or performed.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

Nothing in KRS 214.181, 214.625, or 214.995 shall be construed to prohibit a person from obtaining or performing upon himself or herself a self-test designed to detect human immunodeficiency virus infection.

➔Section 4. KRS 367.175 is amended to read as follows:

- (1) Every contract, combination in the form of trust and otherwise, or conspiracy, in restraint of trade or commerce in this Commonwealth shall be unlawful.
- (2) It shall be unlawful for any person or persons to monopolize, ~~for~~ attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of the trade or commerce in this Commonwealth.
- (3) ~~[The sale, delivery, holding, or offering for sale of any self testing kits designed to tell persons their status concerning human immunodeficiency virus or acquired immunodeficiency syndrome or related disorders, and any advertising of such kits, shall be prohibited.~~
- (4) ~~]~~In addition to any other penalties, *a violation* ~~[violations]~~ of this section shall also be a Class C felony.

Signed by Governor March 31, 2023.

CHAPTER 151

(HB 244)

AN ACT relating to the Kentucky Guard Youth Challenge Program.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Guard Youth Challenge Program is hereby established within the Department of Military Affairs to serve as the state's program for participation in the National Guard Youth Challenge Program established in 32 U.S.C. sec. 509 or any successor program. The program shall establish at least one (1) campus for program operations and may establish additional campuses as funding and demand allow. The program shall serve as an alternative education program that serves each school district in the Commonwealth.*
- (2) *The Kentucky Guard Youth Challenge Program shall be designed to align and comply with federal statute and administrative regulations for the National Guard Youth Challenge Program and associated guidance provided by the United States Department of Defense.*
- (3) *The Kentucky Guard Youth Challenge Program shall be under the direction of the adjutant general or designee. The adjutant general or designee shall:*
 - (a) *Appoint a director of the Kentucky Guard Youth Challenge Program to oversee the daily management of the program; and*
 - (b) *Adopt a strategic plan for the program's schools to ensure continuous improvement.*
- (4) *For purposes of the school assessment and accountability system established in KRS Chapter 158, the Kentucky Department of Education shall, through policy or the promulgation of an administrative regulation, provide that the time each student is participating in the program is attributable to the district sending the student to participate in the program.*

Signed by Governor March 31, 2023.

CHAPTER 152

(HB 522)

AN ACT relating to procurement.

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

➔Section 1. KRS 45A.385 is amended to read as follows:

The local public agency may use small purchase procedures for any contract for which a determination is made that the aggregate amount of the contract does not exceed ~~forty~~^{thirty} thousand dollars ~~(\$40,000)~~^(\$30,000) if small purchase procedures are in writing and available to the public.

➔Section 2. KRS 424.260 is amended to read as follows:

- (1) Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, or sheriff or county clerk, may make a contract, lease, or other agreement for:
 - (a) Materials;
 - (b) Supplies, except perishable foods such as meat, poultry, fish, egg products, fresh vegetables, and fresh fruits;
 - (c) Equipment; or
 - (d) Contractual services other than professional;

involving an expenditure of more than ~~forty~~^{thirty} thousand dollars ~~(\$40,000)~~^(\$30,000) without first making newspaper advertisement for bids. This subsection shall not apply to the transfer of property between governmental agencies as authorized in KRS 82.083(4)(a).
- (2) If the fiscal court requires that the sheriff or county clerk advertise for bids on expenditures of less than ~~forty~~^{thirty} thousand dollars ~~(\$40,000)~~^(\$30,000), the fiscal court requirement shall prevail.

- (3) (a) Nothing in this statute shall limit or restrict the ability of a local school district to acquire supplies and equipment outside of the bidding procedure if those supplies and equipment meet the specifications of the contracts awarded by the Office of Material and Procurement Services in the Office of the Controller within the Finance and Administration Cabinet or a federal, local, or cooperative agency and are available for purchase elsewhere at a lower price. A board of education may purchase those supplies and equipment without advertising for bids if, prior to making the purchases, the board of education obtains certification from the district's finance or purchasing officer that the items to be purchased meet the standards and specifications fixed by state price contract, federal (GSA) price contract, or the bid of another school district whose bid specifications allow other districts to utilize their bids, and that the sales price is lower than that established by the various price contract agreements or available through the bid of another school district whose bid specifications would allow the district to utilize their bid.
- (b) The procedures set forth in paragraph (a) of this subsection shall not be available to the district for any specific item once the bidding procedure has been initiated by an invitation to bid and a publication of specifications for that specific item has been published. In the event that all bids are rejected, the district may again avail itself of the provisions of paragraph (a) of this subsection.
- (4) This requirement shall not apply in an emergency if the chief executive officer of the city, county, or district has duly certified that an emergency exists, and has filed a copy of the certificate with the chief financial officer of the city, county, or district, or if the sheriff or the county clerk has certified that an emergency exists, and has filed a copy of the certificate with the clerk of the court where his necessary office expenses are fixed pursuant to KRS 64.345 or 64.530, or if the superintendent of the board of education has duly certified that an emergency exists, and has filed a copy of the certificate with the chief state school officer.
- (5) The provisions of subsection (1) of this section shall not apply for the purchase of wholesale electric power for resale to the ultimate customers of a municipal utility organized under KRS 96.550 to 96.900.

Signed by Governor March 31, 2023.

CHAPTER 153

(HB 535)

AN ACT relating to criminal justice and making an appropriation therefor.

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

➔Section 1. KRS 15.280 is amended to read as follows:

- (1) A Criminal Justice Statistical Analysis Center is hereby created as part of the Kentucky Justice and Public Safety Cabinet.
- (2) The Criminal Justice Statistical Analysis Center shall provide its reports and recommendations to the Governor and the General Assembly through the secretary of the Justice and Public Safety Cabinet.
- (3) The Criminal Justice Statistical Analysis Center shall:
- (a) Improve the quality and usefulness of criminal justice statistics and research results that are disseminated to citizens, public agencies, and private agencies in Kentucky through the collection, analysis, assimilation, and analysis of research and statistical data, **information, and records** ~~from within the cabinet, from other executive, judicial, and legislative agencies, and from private sources~~;
- (b) **Receive, process, and preserve any criminal justice and public safety data, information, and records within the possession, custody, or control of any agency of the federal, state, or local government, or from a private entity;**
- (c) Publish research results and statistical data ~~that are requested by criminal justice agencies~~;
- ~~(d)~~~~(e)~~ Improve the relationship between citizens and criminal justice agencies of Kentucky by conducting citizen surveys of the needs, attitudes, and behavior relating to crime and justice; ~~and~~
- ~~(e)~~~~(d)~~ Strengthen the relationship between Kentucky criminal justice agencies and the Bureau of Justice Statistics, United States Department of Justice, by:

1. Providing justice statistics to the Bureau of Justice Statistics as required; and
2. Serving as a clearinghouse for Bureau of Justice Statistics materials; *and*

(f) *Design, implement, and maintain a Criminal Justice Statistical Analysis Center records information system.*

- (4) The Kentucky Justice and Public Safety Cabinet may expend any *general, restricted,*~~[federal grants]~~ or federal funds *appropriated*~~[provided]~~ for carrying out the functions and authority as assigned in this section. Further, the Kentucky Justice and Public Safety Cabinet may employ such employees as may be necessary to fulfill the duties, responsibilities, and functions assigned by this section.
- (5) Information and record copies that are confidential under state or federal law and are provided to the Criminal Justice Statistical Analysis Center shall not become the information and records of the center and shall not lose their confidentiality by virtue of the center's access to the information and records. The original information and records used to generate information and record copies provided to the center shall be maintained by the appropriate agency in accordance with state and federal law and shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. All open records requests shall be made to the appropriate agency, not to the Criminal Justice Statistical Analysis Center. Information and record copies provided to the Criminal Justice Statistical Analysis Center for review shall be exempt from the Kentucky Open Records Act, KRS 61.870 to 61.884.

➔Section 2. KRS 15A.190 is amended to read as follows:

~~[(1)]~~—The Justice and Public Safety Cabinet, in consultation with the Cabinet for Health and Family Services, the Kentucky Commission on Women, and any other agency concerned with particular acts of criminal activity, shall:

~~(1)~~~~[(a)]~~ Design, print, and distribute to all law enforcement agencies in the Commonwealth, *an electronic or paper*~~[a]~~ uniform reporting form, *to be known as the JC-3*, which provides statistical information relating to the crimes involving domestic violence, child abuse, victimization of the elderly, including but not limited to elder abuse, neglect, and exploitation and other crimes against the elderly, or any other particular area of criminal activity deemed by the secretary of justice and public safety to require research as to its frequency; and

~~(2)~~~~[(b)]~~ *Promulgate administrative regulations, in accordance with KRS Chapter 13A, to provide that the information required in KRS 209A.122 be provided to the Criminal Justice Statistical Analysis Center*~~[included in the uniform reporting form].~~

~~[(2)]~~—~~The provision of subsection (1) of this section concerning the distribution of forms shall become effective on January 1, 2006.~~

➔Section 3. KRS 209A.122 is amended to read as follows:

(1) As used in this section:

- (a) "Center" means the Criminal Justice Statistical Analysis Center created in KRS 15.280;
- (b) "Corollary victim" means an individual other than the victim who is directly impacted by domestic violence and abuse or dating violence and abuse, either through relationship or proximity;
- (c) "Domestic violence fatalities" means deaths that occur as a result of domestic violence and abuse or dating violence and abuse, and includes but is not limited to homicides, related suicides, and corollary victims; and
- (d) "Near fatality" means a crime where serious physical injury as defined in KRS 500.080 occurs.

(2) The center shall:

- (a) Collect information on domestic violence fatalities, domestic violence and abuse, and dating violence and abuse within the Commonwealth from subsections (3) to ~~(5)~~~~[(8)]~~ of this section; and
- (b) Produce an annual report by July 1 of each year and submit the report to the:
 1. Kentucky Coalition Against Domestic Violence;
 2. Governor;
 3. Cabinet for Health and Family Services;
 4. Interim Joint Committee on Judiciary;

5. Interim Joint Committee on Health, Welfare, and Family Services; and
6. Legislative Research Commission.

The Kentucky Coalition Against Domestic Violence may provide the agencies listed in paragraph (b)1. to 6. of this subsection with best practices and any other recommendations for public policy by November 1 of each year.

- (3) (a) The Department of Kentucky State Police shall provide the center with:
 1. The number of domestic violence and abuse and dating violence and abuse calls for service to which the Kentucky State Police and associated law enforcement agencies responded;
 2. The number of arrests by Kentucky State Police and associated agencies in response to calls of domestic violence and abuse or dating violence and abuse; and
 3. If an arrest was made, the arresting offense charged by Kentucky State Police or associated law enforcement agencies.

(b) The Department of Kentucky State Police shall separately *provide the center with information reported to the Law Information Network of Kentucky (LINK). The Department of Kentucky State Police shall provide the center with the:*

 1. *Number of orders of protection received to be served by law enforcement agencies;*
 2. *Number of orders of protection served by law enforcement agencies;*
 3. *Number of orders of protection in LINK; and*
 4. *Average time for actual service to be returned*

~~report:~~

 1. ~~The number of domestic violence and abuse and dating violence and abuse calls for service to which all other law enforcement agencies responded, if known;~~
 2. ~~The number of arrests by all other local law enforcement agencies in response to calls of domestic violence and abuse and dating violence and abuse; and~~
 3. ~~If an arrest was made, the arresting offense listed by all other local law enforcement agencies not reported under paragraph (a) of this subsection.]~~
- (4) The Administrative Office of the Courts shall provide the center with:
 - (a) The number and type of petitions for orders of protection filed and denied under KRS 403.725;
 - (b) The number and type of petitions for interpersonal violence orders filed and denied under KRS 456.030;
 - (c) The number of emergency protective orders granted under KRS 403.730 and temporary interpersonal protective orders granted under KRS 456.040;
 - (d) The number of domestic violence orders granted under KRS 403.740 and interpersonal protective orders granted under 456.060, excluding amended or corrected orders;
 - (e) The relationship between the petitioner and the respondent, if known;
 - (f) Demographics of the parties, including age, race, and gender;
 - (g) Information on whether the victim was or is pregnant, if indicated on the petition; and
 - (h) The number of criminal charges for a violation of an order of protection.

~~(5) The Law Information Network of Kentucky (LINK) shall provide the center with the:~~

 - ~~(a) Number of orders of protection received to be served by law enforcement agencies;~~
 - ~~(b) Number of orders of protection served by law enforcement agencies;~~
 - ~~(c) Number of orders of protection in LINK; and~~
 - ~~(d) Average time for actual service to be returned.]~~

~~(5)(6)~~ The Cabinet for Health and Family Services shall provide the center with:

- (a) The number of reports of alleged child abuse made to the cabinet through an adult or child abuse hotline in which there were also allegations of domestic violence; and
- (b) Domestic violence and abuse and dating violence and abuse shelter statistics reported to the cabinet, including but not limited to the:
 - 1. ~~Number of beds;~~
 - 2. Number of minors served in shelter;
 - 2. ~~3.~~ Number of minors served in non-shelter services;
 - 3. ~~4.~~ Number of adults served in shelter;
 - 4. ~~5.~~ Number of adults served in non-shelter services;
 - 5. ~~6.~~ Demographics, including age and race;
 - 6. ~~7.~~ Number of crisis or hotline calls;
 - 7. ~~8.~~ Number of minors receiving:
 - a. Crisis intervention;
 - b. Victim advocacy services; and
 - c. Individual or group counseling or support group; *and*
 - 8. ~~9.~~ Number of adult victims receiving:
 - a. Crisis intervention;
 - b. Victim advocacy services;
 - c. Individual or group counseling or support group;
 - d. Criminal or civil legal advocacy;
 - e. Medical accompaniment; and
 - f. Transportation services; ~~and~~
 - 10. ~~Type of services provided.~~

~~{(7) The Division of Kentucky State Medical Examiner's Office shall provide the center with the number of deaths in which domestic violence and abuse or dating violence and abuse was a contributing factor.~~

~~(8) Coroners shall provide the center with the number of deaths as a result of, or suspected to be a result of, domestic violence and abuse or dating violence and abuse.~~

➔Section 4. KRS 500.080 is amended to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

- (1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association;
- (2) "Crime" means a misdemeanor or a felony;
- (3) "Dangerous instrument" means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury. *"Dangerous instrument" may include a laser;*
- (4) "Deadly weapon" means any of the following:
 - (a) A weapon of mass destruction;
 - (b) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;
 - (c) Any knife other than an ordinary pocket knife or hunting knife;
 - (d) Billy, nightstick, or club;
 - (e) Blackjack or slapjack;

- (f) Nunchaku karate sticks;
 - (g) Shuriken or death star; or
 - (h) Artificial knuckles made from metal, plastic, or other similar hard material;
- (5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the Department of Corrections may be imposed;
- (6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;
- (7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;
- (8) "Impacted by the disaster" means the location or in reasonable proximity to the location where a natural or man-made disaster has caused physical injury, serious physical injury, death, or substantial damage to property or infrastructure;
- (9) **"Laser" means any device designed or used to amplify electromagnetic radiation by stimulated emission that emits a beam, other than a medical laser when used in medical treatment or surgery;**
- (10) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;
- ~~(11)(10)~~ "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;
- ~~(12)(11)~~ "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;
- ~~(13)(12)~~ "Natural or man-made disaster" means a tornado, storm, or other severe weather, earthquake, flood, or fire that poses a significant threat to human health and safety, property, or critical infrastructure;
- ~~(14)(13)~~ "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same;
- ~~(15)(14)~~ "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;
- ~~(16)(15)~~ "Physical injury" means substantial physical pain or any impairment of physical condition;
- ~~(17)(16)~~ "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;
- ~~(18)(17)~~ "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health,~~or~~ prolonged loss or impairment of the function of any bodily organ, **or eye damage or visual impairment**. For a child twelve (12) years of age or less at the time of the injury, a serious physical injury includes but is not limited to the following:
- (a) Bruising near the eyes, or on the head, neck, or lower back overlying the kidneys;
 - (b) Any bruising severe enough to cause underlying muscle damage as determined by elevated creatine kinase levels in the blood;
 - (c) Any bruising or soft tissue injury to the genitals that affects the ability to urinate or defecate;
 - (d) Any testicular injury sufficient to put fertility at risk;
 - (e) Any burn near the eyes or involving the mouth, airway, or esophagus;
 - (f) Any burn deep enough to leave scarring or dysfunction of the body;
 - (g) Any burn requiring hospitalization, debridement in the operating room, IV fluids, intubation, or admission to a hospital's intensive care unit;
 - (h) Rib fracture;
 - (i) Scapula or sternum fractures;
 - (j) Any broken bone that requires surgery;

- (k) Head injuries that result in intracranial bleeding, skull fracture, or brain injury;
 - (l) A concussion that results in the child becoming limp, unresponsive, or results in seizure activity;
 - (m) Abdominal injuries that indicate internal organ damage regardless of whether surgery is required;
 - (n) Any injury requiring surgery;
 - (o) Any injury that requires a blood transfusion; and
 - (p) Any injury requiring admission to a hospital's critical care unit;
- (19)~~(18)~~ "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral;
- (20)~~(19)~~ "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed; and
- (21)~~(20)~~ "Weapon of mass destruction" means:
- (a) Any destructive device as defined in KRS 237.030, but not fireworks as defined in KRS 227.700;
 - (b) Any weapon that is designed or intended to cause death or serious physical injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors;
 - (c) Any weapon involving a disease organism; or
 - (d) Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

Signed by Governor March 31, 2023.

CHAPTER 154

(SB 81)

AN ACT relating to private and parochial school calendars.

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

➔Section 1. KRS 158.080 is amended to read as follows:

Private and parochial schools *certified in accordance with KRS 156.160(3)* shall:

- (1) Be taught in the English language and shall offer instruction in the several branches of study required to be taught in the public schools of the state, consistent with KRS 156.445(3); ~~and~~ ~~Except in those school districts operating a year round school program, the term of the school shall not be for a shorter period in each year than the term of the public school provided in the district in which the child attending the school resides. In those school districts which are operating a year round school program, the minimum term of private and parochial schools shall be one hundred eighty five (185) days]~~
- (2) *Operate on a school calendar with a minimum school term and student instructional year, as defined in KRS 158.070.*

Signed by Governor March 31, 2023.

CHAPTER 155

(SB 93)

AN ACT relating to school property in Lewis County.

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

➔Section 1. (1) The General Assembly of the Commonwealth of Kentucky finds that:

(a) In 1881-1882 Ky. Acts ch. 701, a lot of ground previously conveyed to the Vanceburg Public School and Seminary, the successor in interest of the Vanceburg Male and Female Academy, was set apart and dedicated for educational purposes forever;

(b) The Act further provided that the lot of ground shall never be sold without an enabling act of the Legislature of Kentucky; and

(c) The Lewis County Board of Education, as successor in interest to the Vanceburg Public School and Seminary, now has need for the removal of the restriction as the ability to sell the property at a future date is in the best interests of the district.

(2) Notwithstanding 1881-1882 Ky. Acts ch. 701, the restriction on use and sale of the lot of ground as described in that chapter is removed, and the Lewis County Board of Education may sell the property or authorize other use of the property.

Signed by Governor March 31, 2023.

CHAPTER 156

(SB 123)

AN ACT relating to notarial acts.

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

➔Section 1. KRS 423.345 is amended to read as follows:

- (1) (a) A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in that state is performed by:
1. A notary public of that state;
 2. A judge, clerk, or deputy clerk of a court of that state; or
 3. Any other individual authorized by the law of that state to perform the notarial act.
- (b) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.
- (c) The signature and title of a notarial officer described in paragraph (a) or (b) of this subsection conclusively establish the authority of the officer to perform the notarial act.
- (2) (a) *A notarial act performed in another state has the same effect under the law of this state if the act performed is:*
1. *By a notary public of this state; and*
 2. *In a civil action or legal proceeding originating in this state.*
- (b) *The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.*
- (c) *The signature and title of a notarial officer described in paragraph (a) or (b) of this subsection shall conclusively establish the authority of the officer to perform the notarial act.*
- (3) (a) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by:
1. A notary public of the tribe;
 2. A judge, clerk, or deputy clerk of a court of the tribe; or
 3. Any other individual authorized by the law of the tribe to perform the notarial act.

- (b) The signature and title of an individual performing a notarial act under the authority and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.
 - (c) The signature and title of a notarial officer described in paragraph (a) or (b) of this subsection conclusively establish the authority of the notarial officer to perform the notarial act.
- (4)(3) (a) A notarial act performed under the authority of federal law has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by:
- 1. A judge, clerk, or deputy clerk of a court;
 - 2. An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;
 - 3. An individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or
 - 4. Any other individual authorized by federal law to perform the notarial act.
- (b) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.
 - (c) The signature and title of an officer described in paragraph (a) or (b) of this subsection conclusively establish the authority of the officer to perform the notarial act.

Signed by Governor March 31, 2023.

CHAPTER 157

(SB 160)

AN ACT relating to STABLE Kentucky accounts.

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

➔Section 1. KRS 41.415 is amended to read as follows:

- (1) As used in this section, "STABLE Kentucky account" has the same **meaning**~~[definition]~~ as ~~[set forth]~~ in KRS 164A.260.
- (2) The Department of the Treasury shall be responsible for administering **in accordance with this section and Section 2 of this Act** and promoting STABLE Kentucky accounts.
- (3) In order to ensure that the program is administered in a cost-effective manner, the Department of the Treasury may enter into any cooperative agreements, contracts, or similar instruments with:
 - (a) Other states which administer programs created under 26 U.S.C. sec. 529A;
 - (b) Other agencies or departments of the Commonwealth; or
 - (c) A nonprofit organization tasked with providing services to individuals who are eligible for a STABLE Kentucky account.

➔Section 2. KRS 164A.260 is amended to read as follows:

- (1) As used in this section, "STABLE Kentucky account" means an account established by or for the benefit of an eligible individual, as that term is defined by 26 U.S.C. sec. 529A, and established and maintained by the Commonwealth of Kentucky or pursuant to any agreement between the Commonwealth and any other state.
- (2) A STABLE Kentucky account and any investment income earned on a STABLE Kentucky account shall be exempt from all taxation by the Commonwealth of Kentucky or any of its political subdivisions.
- (3) **Moneys in a STABLE Kentucky account or a qualified withdrawal from a STABLE Kentucky account shall:**

- (a) *Be exempt from attachment, execution, or garnishment;*
 - (b) *Be disregarded for the purposes of determining eligibility for or the amount of any public assistance program, unless required by federal law;*
 - (c) *Not be subject to claims by the Cabinet for Health and Family Services, unless required by federal law; and*
 - (d) *Be, on the death of the designated beneficiary, transferred to the estate of the designated beneficiary, unless prohibited by federal law.*
- (4) (a) Distributions from a STABLE Kentucky account shall not be subject to Kentucky income tax if the distributions are for qualified disability expenses as defined by 26 U.S.C. sec. 529A.
- (b) A rollover of funds from one (1) STABLE Kentucky account to another STABLE Kentucky account or to an account established under 26 U.S.C. sec. 529 shall not be treated as a distribution so long as:
- 1. The funds are being transferred into an account for:
 - a. The same eligible individual; or
 - b. An eligible individual who is a member of the same household; and
 - 2. The amount is paid into the new account within sixty (60) days of being removed from the original account.
- (c) Any change in the designated beneficiary of a STABLE Kentucky account shall not be treated as a distribution for purposes of taxation so long as the new beneficiary is a member of the same household.

Signed by Governor March 31, 2023.

CHAPTER 158

(SB 247)

AN ACT relating to transient public school students.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of this section, "eligible student" shall mean a public school student enrolled in kindergarten or grade one (1), two (2), or three (3) who qualifies for free or reduced-price school meals or attends a school that participates in the community eligibility provision of the National School Lunch Program.*
- (2) *When an eligible student changes his or her residence during the school year and the change in residence results in the student being assigned to a different school within the same school district, the parent or guardian of the eligible student shall have the option to request the student, and any of the student's siblings enrolled in the same school in any grade, remain enrolled in the original school, regardless of the transportation decision made under subsection (3) of this section.*
- (3) (a) *Notwithstanding KRS 158.110, if the student remains enrolled in the original school, the school district shall provide transportation to the original school from the student's new residence, except as provided in paragraph (b) of this subsection.*
- (b) *The superintendent may deny the transportation request if he or she determines the distance and travel time that the student would spend in transport is impracticable. The district shall report the transportation denial and supporting rationale to the Kentucky Department of Education.*

Signed by Governor March 31, 2023.

CHAPTER 159

(SB 277)

AN ACT relating to water resources.

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

➔Section 1. KRS 151.100 is amended to read as follows:

As used in KRS 151.110 to 151.460 and 151.990~~[the words listed herein shall have the following respective meanings, unless another or different meaning or intent shall be clearly indicated by the context]:~~

- (1) ~~[The word]~~"Authority" *means*~~[shall mean]~~ the Water Resources Authority of Kentucky;
- (2) ~~[The word]~~"Cabinet" *means*~~[shall mean]~~ the Energy and Environment Cabinet;
- (3) ~~[The word]~~"Stream" or "watercourse" *means*~~[shall mean]~~ any river, creek or channel, having well defined banks, in which water flows for substantial periods of the year to drain a given area, or any lake or other body of water in the Commonwealth;
- (4) ~~[The word]~~"Diffused surface water" *means*~~[shall mean]~~ that water which comes from falling rain or melting snow or ice, and which is diffused over the surface of the ground, or which temporarily flows vagrantly upon or over the surface of the ground as the natural elevations and depressions of the surface of the earth may guide it, until such water reaches a stream or watercourse;
- (5) **"Groundwater"**~~[The word "Ground water" or "subterranean water"]~~ *means*~~[shall mean]~~ all water which fills the natural openings under the earth's surface, including all underground watercourses, artesian basins, reservoirs, lakes, and other bodies of water below the earth's surface;
- (6) ~~[The word]~~"Floodway" *means the channel of a river, stream, or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height*~~[shall mean that area of a stream or watercourse necessary to carry off flood water as determined by the secretary];~~
- (7) ~~[The word]~~"Floodplain" *means*~~[shall mean]~~ the area in a watershed that is *susceptible to being inundated by floodwaters from any source*~~[subject to inundation];~~
- (8) ~~[The word]~~"Watershed" *means*~~[shall mean]~~ all the area from which all drainage passes a given point downstream;
- (9) ~~[The word]~~"Domestic use" *means*~~[shall mean]~~ the use of water for ordinary household purposes, and drinking water for poultry, livestock, and domestic animals;
- (10) ~~[The word]~~"Water resources project" or "project" *means*~~[shall mean]~~ any structural or nonstructural study, plan, design, construction, development, improvement, or any other activity including programs for management, intended to conserve and develop the water resources of the Commonwealth and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures;
- (11) ~~[The word]~~"Withdraw" or "withdrawal" of water *means*~~[shall mean]~~ the actual removal or taking of water from any stream, watercourse, or other body of public water;
- (12) ~~[The word]~~"Dam" *means*~~[shall mean]~~ any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:
 - (a) Is or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the cabinet; or
 - (b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre-feet or more;
- (13) "Embankment dam" *means*~~[shall mean]~~ any dam constructed of excavated natural materials or of industrial waste materials;
- (14) "Gravity dam" *means*~~[shall mean]~~ a dam constructed of concrete or masonry that relies on its weight for stability;
- (15) ~~[The word]~~"Person" *means*~~[shall mean]~~ any individual, public or private corporation, political subdivision, government agency, municipality, copartnership, association, firm, trust, estate, or other entity whatsoever;

- (16) "Secretary" ~~means~~~~[shall mean]~~ the secretary of the Energy and Environment Cabinet;
- (17) "Authorized representative" ~~means~~~~[shall mean]~~ an individual specifically authorized by the secretary to act ~~on~~~~[in]~~ his *or her* behalf;
- (18) ~~[The word]~~ "Reservoir" ~~means~~~~[shall mean]~~ any basin which contains or will contain the water impounded by a dam;
- (19) "Owner" ~~means~~~~[shall mean]~~ any person who owns an interest in, controls, or operates a dam; ~~and~~
- (20) "Livestock" ~~means~~~~[shall mean]~~ cattle, sheep, swine, goats, horses, alpacas, llamas, buffaloes, and any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species; *and*
- (21) *"Base flood" means the elevation of surface water resulting from a flood that has a one percent (1%) chance of equaling or exceeding that level in any given year.*

➔Section 2. KRS 151.110 is amended to read as follows:

- (1) (a) The conservation, development, and proper use of the water resources of the Commonwealth of Kentucky have become of vital importance as a result of population expansion and concentration, industrial growth, technological advances, and an ever increasing demand for water for varied domestic, agricultural, industrial, municipal, and recreational uses. It is recognized by the General Assembly that excessive rainfall during certain seasons of the year causes damage from overflowing streams. However, prolonged droughts at other seasons curtail *domestic*, industrial, municipal, agricultural, and recreational uses of water and seriously threaten the continued growth and economic well-being of the Commonwealth. The advancement of the safety, happiness, and welfare of the people and the protection of property require that the power inherent in the people be utilized to promote and to regulate the conservation, development, and most beneficial use of the water resources. It is hereby declared that the general welfare requires that the water resources of the Commonwealth be put to the beneficial use to the fullest extent of which they are capable, that the waste or nonbeneficial use of water be prevented, and that the conservation and beneficial use of water be exercised in the interest of the people. Therefore, it is declared the policy of the Commonwealth to actively encourage and to provide financial, technical, or other support for projects that will ~~manage~~~~[control and store]~~ our water resources in order that the continued growth and development of the Commonwealth might be ~~ensured~~~~[assured]~~. To that end, it is declared to be the purpose of KRS Chapters 146, 149, 151, 224, 262, and KRS 350.029 and 433.750 to 433.757 for the Commonwealth to permit, regulate, and participate in the construction or financing of facilities to store surplus surface water for future use; to conserve and develop the *groundwater*~~[ground water]~~ resources of the Commonwealth; to require local communities to develop long range water supply plans; to protect the rights of all persons equitably and reasonably interested in the use and availability of water; to prohibit the pollution of water resources and to maintain the normal flow of all streams so that the proper quantity and quality of water will be available at all times to the people of the Commonwealth; to provide for the adequate disposition of water among the people of the Commonwealth entitled to its use during severe droughts or times of emergency; to prevent harmful overflows and flooding; to regulate the construction, maintenance, and operation of all dams and other barriers of streams; to prevent the obstruction of streams and floodways by the dumping of substances therein; to keep accurate records on the amount of water withdrawal from streams and watercourses and reasonably regulate the amount of withdrawal of public water; and to engage in other activities as may be necessary to conserve and develop the water resources of the Commonwealth of Kentucky, and to ensure adequate supply of water for domestic, agricultural, recreational, and economic development uses.
- (b) The cabinet shall:
1. Provide leadership in water use efficiency for all water uses;
 2. Promote conservation;
 3. Offer technical assistance and conduct research;
 4. Be the lead agency with other state and local agencies to incorporate conservation measures and incentives into their programs;
 5. Sponsor "technology transfer sessions" on water conservation to commercial and industrial operations;

6. Provide leadership to communities looking for information and methods for coping with the issues of growth and water supply;
 7. Provide **recommendations and** leadership for **water resources**, on-farm and rural community drought and water assessment, monitoring, and improvement for agricultural purposes; and
 8. Have the authority to receive and disperse federal, state, and other funds for the purpose of **water resources**, on-farm and community drought and water assessment, monitoring, and improvements.
- (c) **Paragraph (b) of this** subsection~~[(1)(b)]~~ shall not be construed as changing the relationship between the cabinet and the Kentucky River Authority and their respective responsibilities for oversight of the Kentucky River as set out in KRS 151.700 and 151.720.

- (2) It is a finding of the General Assembly that groundwater is an important but vulnerable natural resource of this state, that the majority of rural Kentuckians rely exclusively on groundwater for drinking, and that groundwater is inextricably linked to surface waters which may also serve as a drinking water resource. It is also a finding that groundwater is a resource equally vital for agricultural, commercial, and industrial purposes and that useable groundwater is critical to the future development of these industries. Therefore, it shall be the policy of this state to manage groundwater for the health, welfare, and economic prosperity of all citizens.

➔Section 3. KRS 151.112 is amended to read as follows:

- (1) The cabinet shall develop a comprehensive and systematic planning process for the long-range management and orderly development of the Commonwealth's water resources. The planning process shall generate over each biennium a plan for the implementation of specific goals and management objectives for the cabinet to achieve in meeting the Commonwealth's water needs. The biennial plan shall serve as the basis for the cabinet's budgeting process in allocating resources to the state's water resource programs. The planning process shall be developed to:
- (a) Protect, conserve, develop, and utilize the water resource in a manner consistent with the Commonwealth's duties for management of natural resources, the public's right to clean water, and the preservation of the natural, scenic, cultural, historic, and aesthetic values of the environment;
 - (b) Provide a coordinated framework for cooperation among federal, interstate, state, and local government agencies in the planning and management of water resources, in a manner consistent with KRS Chapter 147 and KRS 224.10-100(13);
 - (c) Be both anticipatory of future needs and reactive to **current needs**~~[problems]~~;
 - (d) Provide for public involvement in the establishment of the comprehensive and systematic planning process, in plan development and implementation, and the allocation and prioritizing of resources for water resource management and development;~~[and]~~
 - (e) Establish a process for the collection and coordination of data regarding surface **water** and **groundwater**~~[ground-water]~~ availability and quality, including the presence of point and nonpoint sources of pollution, instream flow information, withdrawal and use information, an assessment of flood damage and storm water management problems, and an identification and assessment of future data needs; **and**
 - (f) **Request technical assistance from any agency or organization the cabinet deems necessary to carry out its duties as established in this chapter.**
- (2) The continuous planning process shall include goals and objectives for **groundwater**~~[ground]~~ and surface water quantity and quality management in order to assess the effectiveness of current programs in addressing the comprehensive water needs of the Commonwealth and to gauge the need for new or different programs to recommend to the General Assembly for legislation.

➔Section 4. KRS 151.116 is amended to read as follows:

The cabinet shall promulgate **administrative** regulations to carry out the program and shall consult with the Cabinet for Economic Development **and the Kentucky Infrastructure Authority** in developing those regulations. The **administrative** regulations shall set out the details which are to be included in the water supply plans, the procedure for counties and their municipalities and public water systems to apply for financial assistance to pay for the plans, and the criteria and process by which the cabinet will approve plans. The cabinet shall assemble all information in a uniform database available to all agencies and concerned entities.

➔Section 5. KRS 151.120 is amended to read as follows:

- (1) Water occurring in any stream, lake, **groundwater**,~~[ground water, subterranean water]~~ or other body of water in the Commonwealth which may be applied to any useful and beneficial purpose is hereby declared to be a natural resource and public water of the Commonwealth and subject to control or regulation for the public welfare as provided in KRS Chapters 146, 149, 151, 262 and 350.029 and 433.750 to 433.757.
- (2) Diffused surface water which flows vagrantly over the surface of the ground shall not be regarded as public water, and the owner of land on which such water falls or flows shall have the right to its use. Water left standing in natural pools in a natural stream when the natural flow of the stream has ceased, shall not be regarded as public water and the owners of land contiguous to that water shall have the rights to its use.

➔Section 6. KRS 151.125 is amended to read as follows:

The secretary shall exercise the following authority and powers:

- (1) ~~[To]~~Administer and enforce the provisions of this chapter and all rules and regulations and orders promulgated thereunder;
- (2) ~~[To]~~Conduct or obtain investigations, research, experiments, training programs and demonstrations, and to collect and disseminate information relating to the safe construction, operation, or maintenance of dams and reservoirs;
- (3) ~~[To]~~Adopt, after giving public notice and affording an opportunity to all interested persons to appear and offer evidence at a public hearing in connection therewith, general rules and **administrative** regulations for flood control and water resources, **and minimum standards for floodplain management, deemed**~~[which he deems]~~ necessary to accomplish the purposes of this chapter. Such rules and **administrative** regulations, which shall have the force and effect of law, shall be of uniform application as far as practicable, but they may take proper account of differences in topography, geology, soil conditions, climate, hydrology, and use of the reservoir and the lands lying in the floodplain downstream from the dam;
- (4) ~~[To]~~Adopt, **in accordance with KRS Chapter 13A**~~[without notice or hearing]~~, rules and **administrative** regulations with respect to procedural aspects of hearings, the filing of reports and orders, the issuance of **inspection reports**~~[certificates of inspection]~~, construction permits, water withdrawal permits, and other procedural matters;
- (5) ~~[To]~~Issue orders requiring the adoption by an owner of remedial measures necessary for the safety of life, or public or private property, or for carrying out the provisions of this chapter, or rules and **administrative** regulations issued thereunder;
- (6) ~~[To]~~Examine and approve or disapprove applications for construction permits for the construction, enlargement, repair, or alteration of a dam;
- (7) ~~[To]~~Establish standards for the safe construction, enlargement, repair, alteration, maintenance, or operation of a dam or reservoir. Such standards shall be issued in the form of **administrative** regulations as described in subsection (3) of this section;
- (8) ~~[To]~~Make such investigations or inspections as necessary to determine the condition of a dam to **ensure**~~[insure]~~ compliance with any provisions of this chapter, including the right to enter at any time upon an area affected for such purposes and the right of ingress and egress across intervening properties;
- (9) ~~[To]~~Order the suspension or revocation, after warning, of any **inspection report**~~[certificate of inspection]~~, construction permit, or water withdrawal permit for failure to comply with any of the provisions of this chapter or with any rules, **administrative** regulations, or orders adopted pursuant thereto, or with any of the conditions contained in or attached to the **inspection report**~~[certificate of inspection]~~, construction permits, or water withdrawal permits;
- (10) ~~[To]~~Order the immediate cessation of any act that is started or continued without a construction permit or water withdrawal permit as required by~~[the provisions of]~~ this chapter; **and**
- (11) To institute and prosecute all such court actions as may be necessary to obtain the enforcement of any order issued by the cabinet in carrying out the provisions of this chapter.

➔Section 7. KRS 151.220 is amended to read as follows:

The cabinet shall:

- (1) Undertake for and as the official agency of the state, such studies and prepare such reports and recommendations as may be necessary to establish a statewide program of flood control, ~~[[including major drainage]]~~, and a statewide program for the development of water resources;
- (2) Study and review for the state as its official agency, all survey reports, engineering reports, and other reports concerning or affecting water related projects within the state which are proposed for construction by the federal government, the state government or any agency or subdivision thereof, or which will involve the expenditure of federal or state funds, and which might affect flood control or the development of water resources of the state, and to act as the official representative of the state in any representations, recommendations, or requests to Congress or the General Assembly concerning such projects or the priority which should be accorded them with relation to the statewide program;
- (3) Make a continuous water resources study of data from other existing state or federal agencies and such other sources as may be available. From such studies, the cabinet shall formulate conclusions and recommendations for use by the Commonwealth in assuring the maximum beneficial use of the water resources of the Commonwealth;
- (4) Cooperate with any local, state, or federal agency, or the agencies of any other state engaged or proposing to engage in any work which will affect or be affected by the functions of the cabinet and may lend to or receive from any such agency such financial assistance as may be necessary within the limits of authorized expenditure;
- (5) Have, for flood control and water resources development purposes, jurisdiction over all streams within or bordering upon the state. The cabinet shall have the authority to establish and enforce floodways along such streams;
- (6) Have authority to accept and use *cooperative agreements*, ~~[[gifts, contributions, donations and]]~~ grants, *and other contributions; and*
- (7) Be the official state agency for determination of stream mileage.

➔ Section 8. KRS 151.250 is amended to read as follows:

- (1) Notwithstanding any other provision of law, no person and no city, county, or other political subdivision of the state, including levee districts, drainage districts, flood control districts or systems, or similar bodies, shall commence the construction, reconstruction, relocation, or improvement of any dam, embankment, levee, dike, bridge, fill, or other obstruction, ~~[[except those constructed by the *Kentucky Transportation Cabinet*, [Department of Highways) across or along any stream, or]]~~ in the *floodplain or* floodway of any stream, unless the plans and specifications for such work have been:
 - (a) Submitted by the person or political subdivision responsible for the construction, reconstruction, or improvement; and ~~[[such plans and specifications have been]]~~
 - (b) Approved in writing by the cabinet and a permit issued.

However, the cabinet by *administrative* regulation may exempt those dams, embankments, or other obstructions which are not of such size or type as to require approval by the cabinet in the interest of safety or retention of water supply.

- (2) No person, city, county, or other political subdivision of the state shall commence the filling of, *or place a building, barrier, or obstruction of any sort in*, any area *in the floodplain or floodway* ~~[[with earth, debris, or any other material, or raise the level of any area in any manner, or place a building, barrier or obstruction of any sort on any area located adjacent to a river or stream or in the floodway of the stream so that such filling, raising or obstruction will in any way affect the flow of water in the channel or in the floodway of the stream]]~~ unless plans and specifications for such work have been submitted to and approved by the cabinet and a permit issued as required in subsection (1) above.
- (3) Nothing in this section is intended to give the cabinet any jurisdiction or control over the construction, reconstruction, improvement, enlargement, maintenance, or operation of any drainage district, ditch, or system established for agricultural purposes. *However, the cabinet may require approval prior to construction of structures, dams, embankments, levees, bridges, fill, or other construction related to agricultural operations that impact the base flood of a stream* ~~[[, or to require approval of the same except where such obstruction of the stream or floodway is determined by the cabinet to be a detriment or hindrance to the beneficial use of water resources in the area, and the person or political subdivision in control thereof so notified]].~~

- (4) The Department for Natural Resources through KRS Chapter 350 shall have exclusive jurisdiction over KRS Chapter 151 concerning the regulation of dams, levees, embankments, dikes, bridges, fills, or other obstructions across or along any stream or in the floodway of any stream which structures are permitted under KRS Chapter 350 for surface coal mining operations.

➔Section 9. KRS 151.260 is amended to read as follows:

- (1) All applications for permits required by KRS 151.250 shall be in the form and manner prescribed by the cabinet.
- (2) Unless waived by the cabinet, all plans and specifications submitted for approval shall be drawn by an engineer, licensed to practice as a professional engineer under the provisions of KRS Chapter 322.
- (3) Upon receipt of all plans and specifications, the cabinet shall notify the applicant in writing within twenty (20) working days *for a floodplain permit application, and within forty-five (45) working days for a dam permit application*, either that the permit will be issued or denied, or that certain modifications in the plans or specifications must be made before a permit will be issued.
- (4) *The secretary may establish, by administrative regulation promulgated pursuant to KRS Chapter 13A, a requirement for the owner of any dam classified by the cabinet as high hazard, moderate hazard, or significant hazard to develop, exercise, and maintain an emergency action plan certified by the owner of the dam.*

➔Section 10. KRS 151.293 is amended to read as follows:

- (1) Within sixty (60) days of completion of an on-site inspection of an existing dam, the cabinet *shall prepare an inspection report* ~~may either grant a certificate of inspection, or deny the certificate of inspection~~ and notify the owner in writing ~~[, stating the reasons for denial]~~.
- (2) ~~[In deciding whether or not a certificate of inspection should be issued, the cabinet shall take into account all pertinent facts and conditions, but shall not issue a certificate unless the following conditions have been met:~~
 - ~~(a) The proposed action in the judgment of the cabinet will be conducted in such a way that the safety of the public is adequately provided for;~~
 - ~~(b) All information requested by the cabinet has been provided; and~~
 - ~~(c) The changed flow of the stream or level of the reservoir will not significantly interfere with a beneficial use by other water users.~~
- ~~(3) In granting a certificate of inspection,]~~The cabinet may impose such conditions relating to the inspection, operation, maintenance, alteration, repair, use, or control of a dam or reservoir as it determines are necessary for the protection of public health, safety, or welfare.
- ~~(3)~~~~(4)~~ The cabinet may establish hazard categories for dams based on downstream floodplain use, size, or type of dam, or other criteria, and may impose different conditions or types of conditions on the approval of dams or reservoirs in the different categories. The hazard categories in all cases shall be based only on the actual risk imposed by the dam.
- ~~(4)~~~~(5)~~ The cabinet may utilize the results and information provided by or for the United States Army Corps of Engineers pursuant to the provisions of *Pub. L. No.* ~~[Public Law]~~ 92-367 if the information is not more than one (1) year old at the time of use.
- ~~(5)~~~~(6)~~ *Inspection reports* ~~[Certificates of inspection]~~ shall be for a definite period of time, not to exceed five (5) years, as determined by the cabinet and stated on the *inspection report* ~~[certificate]~~. In determining the period of inspection, the cabinet may take account of any circumstances pertinent to the situation, including, but not limited to, the size and type of dam, topography, geology, soil conditions, hydrology, climate, use of the reservoir, the lands lying in the floodplain downstream from the dam, and the hazard category of the dam.
- ~~(6)~~~~(7)~~ The cabinet may modify *an inspection report* ~~[a certificate of inspection]~~ or the conditions attached to it. Such modification shall become effective ninety (90) days following issuance by the cabinet of a revised *inspection report* ~~[certificate]~~, except when the cabinet finds that a state of emergency exists and that life or property would be endangered by delay. In case of an emergency declared by the cabinet, the new conditions shall be effective immediately.

(7)~~(8)~~ Specific guidelines for issuance and renewal of *an inspection report*~~[certificate of inspection]~~ for earth embankment dams shall be provided by administrative regulations which shall address at least the following areas:

- (a) The hydraulic capacity requirements for each category of dam shall be provided. The probable maximum precipitation as determined by the *National Oceanic and Atmospheric Administration or another scientific evidence-based means*~~[United States Weather Service]~~ shall be used only where it can be clearly demonstrated that failure of the dam by overtopping would result in greater loss of life than would occur if the dam did not exist and only for small watersheds, since such large rainfall events are not expected to occur over large areas. The cabinet shall provide a table of factors that reduce this rainfall appropriately for larger watersheds;
- (b) Minimum criteria for the embankment stability of the dam, including consideration of such factors as steepness of slopes, strength of materials, and earthquake loadings shall be specified;
- (c) Variance procedures for applicable hydraulic and stability considerations shall be included for, but not limited to, variances to hydraulic criteria where only a small number of persons are at risk and where a reliable, effective emergency preparedness system will be installed; where a risk analysis demonstrates that at rainfall levels less than that specified in the administrative regulation there is no risk that actually results from the dam; where an owner can demonstrate that the dam substantially conforms to the criteria in the administrative regulation; and, for dams that pose a risk of economic damages only, where the owner provides indemnification against potential damages;
- (d) Before any variance is issued, the affected public shall be notified of the cabinet's intended action and allowed to make known any objections or concerns that it might have;
- (e) Whenever the owner of a dam has requested a variance and the request has not been granted or has not been granted in the manner requested, the owner or aggrieved party may petition the cabinet to have the variance request reviewed and a final determination made by the cabinet. If not satisfied by the final determination of the cabinet, the party may seek administrative remedy from the cabinet under the provisions of KRS 151.182;
- (f) Items of general maintenance of a dam *and all its appurtenances* shall include provisions for at least the following: dams shall be mowed regularly; dams shall be free of trees and brush; animal burrows shall not be allowed on dams; slides, erosion and cracks that could pose problems to dams shall be properly repaired; action shall be taken to alleviate excessive wetness and abnormal seepage; appurtenances that are necessary for the proper operation and maintenance of the dam shall be kept in proper working condition;
- (g) Provisions shall be made whereby the cabinet will allow for staged renovation of dams that do not meet the criteria of the administrative regulations and shall clearly identify the circumstances under which staging is allowable and set a maximum time limit that may be allowed for bringing the dam into compliance. Other provisions shall require the owner to develop and maintain an emergency action plan, to provide interim insurance, bonding or other indemnification, and on a frequent basis as specified by the cabinet, to inspect the dam and report to the cabinet the status of any facilities or conditions of concern; and
- (h) If the cabinet has previously required a dam to be upgraded to meet a certain dam safety standard, it shall not require that the dam be upgraded again because of a change in the administrative regulation with regard to that same standard. However, if the owner proposes substantial construction on the dam or if the dam must be repaired due to indications of distress or to partial failure, the cabinet may require the owner to bring the dam into full compliance with current standards.

(8)~~(9)~~ The cabinet shall establish guidelines on a case-by-case basis for gravity dams and other types of dams that are unusual to the Commonwealth, and shall follow recognized engineering practice.

(9)~~(10)~~ Plans and specifications submitted to the cabinet shall be the responsibility of and signed by an engineer licensed by the Commonwealth and experienced in the design and construction of dams, as determined by the cabinet.

➔Section 11. KRS 151.310 is amended to read as follows:

No person, city, county, or other political subdivision of the state shall deposit or cause to be deposited any matter that will in any way restrict or disturb the flow of water in the channel or in the floodway of any stream except where a permit has been issued for construction under KRS 151.250, or to encroach on the reservoir area of any dam

~~authorized by the Congress of the United States, or~~ under the jurisdiction of the Commonwealth, or any of its political subdivisions.

➔Section 12. KRS 151.600 is amended to read as follows:

- (1) The ~~*cabinet shall administer National Flood Insurance Program-related activities, by developing*~~ ~~water resources authority shall develop~~ a public information program for use by local units of government which will assist them in the development of ~~*floodplain*~~ ~~flood plain~~ management and flood hazard mitigation programs. The ~~*cabinet*~~ ~~authority~~ shall make the public information program available statewide and easily accessible.
- (2) The public information program shall be designed to increase public awareness and community responsiveness toward ~~*floodplain*~~ ~~flood plain~~ management and shall include, but not be restricted to, the following:
 - (a) ~~*Floodplain*~~ ~~Flood plain~~ information training workshops for local officials and citizens;
 - (b) ~~*Floodplain*~~ ~~Flood plain~~ information booklets describing ~~*floodplain*~~ ~~flood plain~~ management, including flood warnings, overall preparedness, flood insurance, and flood proofing of buildings; and
 - (c) Model ~~*floodplain*~~ ~~flood plain~~ development ordinances for adoption by local governmental units.

➔Section 13. The following KRS section is repealed:

151.230 Minimum standards for flood plain management to be set by administrative regulation -- Local application and effect.

Signed by Governor March 31, 2023.

CHAPTER 160

(HJR 38)

A JOINT RESOLUTION directing and urging the Cabinet for Health and Family Services take actions to improve emergency medical services and declaring an emergency.

WHEREAS, emergency medical services providers are paid for transporting a patient to a hospital and, only in specific situations, for treating a patient without transporting the patient to a hospital or to another location; and

WHEREAS, there is no reimbursement for keeping ambulances ready to respond or for responding to a 911 call where treatment is unnecessary or a patient refuses treatment; and

WHEREAS, Medicaid transport rates of \$100 for advanced life support and \$82.50 for basic life support have remained the same for over 10 years, while the costs of providing services have risen significantly; and

WHEREAS, relative to Medicaid reimbursement rates, the rates for surrounding states and Medicare are 30 percent to 400 percent higher; and

WHEREAS, Medicare reimburses approximately 50 percent of the actual cost of EMS, and Medicaid reimburses approximately 10 percent; and

WHEREAS, the Emergency Medical Services Task Force recommended that the Cabinet for Health and Family Services apply for a Medicaid waiver to permit the coverage of triage, treatment, and transport of patients by emergency ambulance services, submit a state Medicaid plan amendment to cover treatment in place without transportation for emergency ambulance services, and to increase Medicaid reimbursement rates for ambulance services as funds become available;

NOW, THEREFORE,

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

➔Section 1. The General Assembly hereby:

- (1) Directs the Cabinet for Health and Family Services to:
 - (a) Apply for a Medicaid waiver to permit the coverage of triage, treatment, and transport of patients by emergency ambulance services; and

(b) Submit a state Medicaid plan amendment to cover treatment in place without transportation for emergency ambulance services; and

(2) Urges the Cabinet for Health and Family Services to increase Medicaid reimbursement rates for ambulance services as funds become available.

➔Section 2. The Cabinet for Health and Family Services shall report to the Interim Joint Committee on Health, Welfare, and Family Services by August 1, 2023, of any actions taken and any necessary legislative action that may be needed to obtain a Medicaid waiver to permit the coverage of triage, treatment, and transport of patients by emergency ambulance services and to obtain approval for a state Medicaid plan amendment to cover treatment in place without transportation for emergency ambulance services targeting individuals with severe mental illness.

➔Section 3. In the event the Legislative Research Commission dissolves the Interim Joint Committee on Health, Welfare, and Family Services and establishes another interim joint committee with jurisdiction over health services, the report required in Section 2 of this Act shall be submitted to that interim joint committee.

➔Section 4. Whereas, the General Assembly believes the citizens of the Commonwealth deserve the best possible emergency medical services, an emergency is declared to exist, and this Resolution takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor March 31, 2023.

CHAPTER 161

(HJR 49)

A JOINT RESOLUTION directing the Tourism, Arts and Heritage Cabinet to develop a Kentucky Women's History Trail.

WHEREAS, throughout Kentucky's history, women have made renowned contributions to the growth and strength of Kentucky; and

WHEREAS, many generations of women have helped advance the state through economic, cultural, and social adversity, such as Laura Clay, a native of Richmond, Kentucky, who was the co-founder and first president of the Kentucky Equal Rights Association and a leader in the American women's suffrage movement; and Mary Todd Lincoln, a native of Lexington, Kentucky, who stood courageously by her husband, President Abraham Lincoln, while they led our nation through some of the deadliest and darkest days of its history in the Civil War; and

WHEREAS, the women of Kentucky have consistently broken glass ceilings and blazed a trail for future women in historically male-dominated fields such as aviation, music, and literature; and

WHEREAS, the list of remarkably talented Kentucky women is extensive and includes Willa Brown, a native of Glasgow, Kentucky, who became the first African American woman in the United States to earn a pilot's license and ultimately became the first African American officer in the Civil Air Patrol, the first American woman to hold both a mechanic's license and commercial pilot's license, and the first African American woman to run for the United States Congress; Bobbie Ann Mason, a native of Mayfield, Kentucky, who is a novelist, short story writer, essayist, and literary critic. In 1985, she published her first novel, *In Country*, which was made into a feature film. Her memoir was a finalist for the Pulitzer Prize; and the coal miner's daughter, Loretta Lynn, who was born into poverty in Butcher Hollow, Johnson County, Kentucky, married and left home at 15 years old, and ultimately became one of the most beloved country music legends of all time. These great women paved the way and made it possible for future generations of women to follow in their footsteps; and

WHEREAS, women continue to be leaders of social change, business, government, and more; and

WHEREAS, the sacrifices these and many other women have made have created a more fair and just society for everyone;

NOW, THEREFORE,

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

➔Section 1. The Tourism, Arts, and Heritage Cabinet, after consultation with the Transportation Cabinet and all other relevant state and local agencies, shall develop the Kentucky Women's History Trail, which shall encompass all geographic areas of Kentucky and be designated by historical markers. The cabinet shall develop:

(1) Criteria for an application process for nominations of accomplished Kentucky women to be honored along the trail; and

(2) A system of placing historical markers designating the areas in which each honoree will be recognized.

➔Section 2. The Tourism, Arts, and Heritage Cabinet shall appropriate needed funds for this project in the 2025-2026 biennial budget, subject to the approval of the General Assembly.

➔Section 3. The Tourism, Arts, and Heritage Cabinet shall report strategies for the implementation of this trail to the Interim Joint Committee on Tourism, Small Business, and Information Technology by November 1, 2023.

Signed by Governor March 31, 2023.

CHAPTER 162

(SB 40)

AN ACT relating to deceased persons.

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

➔Section 1. KRS 72.405 is amended to read as follows:

As used in *this chapter* ~~[KRS 72.410 to 72.470]~~, unless the context clearly indicates otherwise:

- (1) "Coroner ordered autopsy" means an autopsy ordered by the coroner having jurisdiction and performed by a pathologist pursuant to such authorization in order to ascertain the cause and manner of death in a coroner's case. In the event the pathologist deems it necessary, he or she may submit the appropriate specimen to a qualified chemist or toxicologist for analysis to assist him or her in ascertaining the cause of death in a coroner's case;
- (2) "Coroner's case" means a case in which the coroner has reasonable cause for believing that the death of a human being within his or her county was caused by any of the conditions set forth in KRS 72.025;
- (3) **"Genetic tests" means testing for genetic markers for cardiac arrhythmogenic syndromes;**
- (4) "Inquest" means an examination ordered by the coroner, or in his or her absence, ordered by a deputy coroner, into the causes and circumstances of any death which is a coroner's case by a jury of six (6) residents of the county impaneled and selected by the coroner to assist him or her in ascertaining the cause and manner of death;
- ~~(5)~~**(4)** "Post-mortem examination" means a physical examination of the body by a medical examiner or by a coroner or deputy coroner who has been certified by the Justice and Public Safety Cabinet and may include an autopsy performed by a pathologist; ~~;~~ other appropriate scientific tests administered to determine cause of death, **including but not limited to genetic tests**; or collection of tissue samples collected pursuant to KRS 213.161(3); and
- ~~(6)~~**(5)** "Certified coroner" or "certified deputy coroner" means a coroner or deputy coroner who has been certified by the Justice and Public Safety Cabinet to have successfully completed both the basic training course and annual **in-service** ~~[in-service]~~ training course required by KRS 72.415, except that a deputy coroner shall be certified without completion of training courses required by KRS 72.415 if he or she is a licensed physician. ~~The secretary of justice and public safety may waive the requirement for basic training and certify a coroner during the eighteen (18) month period after July 15, 1982, if the advisory commission set forth in KRS 72.225 certifies to the secretary after a thorough review that the experience and knowledge of the specific coroner is such that he or she is qualified to be a certified coroner without taking the basic training.]~~

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 72 IS CREATED TO READ AS FOLLOWS:

- (1) **Except in skeletal and decomposing human remains, in the case of a deceased person under forty (40) years of age where a post-mortem examination is performed by the Office of the Kentucky State Medical**

Examiner under the authority of the county coroner and the state medical examiner does not determine a cause of death, the Office of the Kentucky State Medical Examiner shall conduct genetic tests on the deceased person.

- (2) *If the Office of the Kentucky State Medical Examiner determines the cause of death of the deceased person based on the results of genetic tests, the coroner shall enter the information on the deceased person's death certificate for the signature of the state registrar of vital statistics.*
- (3) *The Justice and Public Safety Cabinet, in consultation with the Office of the Kentucky State Medical Examiner, shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to administer this section.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The fourth Thursday in March of each year is designated as Tuskegee Airmen Commemoration Day.

➔Section 4. Sections 1 and 2 of this Act may be cited as the Micah Shantell Fletcher Law.

Signed by Governor March 31, 2023.

CHAPTER 163

(SB 199)

AN ACT relating to crimes and punishments.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Motor vehicle" has the same meaning as "vehicle" in KRS 186.010(8)(a);*
- (b) *"Protective order" has the same meaning as in KRS 508.130; and*
- (c) *"Tracking device" means an electronic or mechanical device that is designed or intended to allow a person to remotely determine or track the position or movement of another person or an object, regardless of whether that information is recorded.*

(2) *A person is guilty of unlawful use of a tracking device when he or she intentionally:*

- (a) *Installs or places a tracking device, or causes a tracking device to be installed or placed, in or on a motor vehicle without the knowledge and consent of the owner of the motor vehicle or, if the motor vehicle is leased, the lessee or authorized operator of the motor vehicle;*
- (b) *Tracks the location of a motor vehicle with a tracking device without the knowledge and consent of either the owner or the authorized operator of the motor vehicle or, if the motor vehicle is leased, either the lessee or authorized operator of the motor vehicle;*
- (c) *While being the restrained party under a protective order, uses a tracking device to track the location of a motor vehicle operated or occupied by an individual protected under the order; or*
- (d) *While on probation or parole for a crime defined in KRS Chapter 508, uses a tracking device to track the location of a motor vehicle operated or occupied by a victim of the crime or by a family member of the victim of the crime without the knowledge and consent of the victim or family member.*

(3) *Unlawful use of a tracking device is a Class A misdemeanor.*

(4) *Subsection (2) of this section does not apply to the installation or use of any:*

- (a) *Device providing vehicle tracking for purposes of providing mechanical, operational, directional, navigation, weather, or traffic information to the operator of the vehicle;*
- (b) *Device for providing emergency assistance to the operator or passengers of the vehicle under the terms and conditions of a subscription service, including any trial period of that subscription service;*

- (c) *Device for providing missing vehicle assistance for the benefit of the owner or operator of the vehicle;*
- (d) *Device providing diagnostic services regarding the mechanical operation of a vehicle under the terms and conditions of a subscription service, including any trial period of the subscription service;*
- (e) *Device or service providing the lessee of the vehicle with clear notice that the vehicle may be tracked. For a lessor who installs a tracking device subsequent to the original vehicle manufacture, the notice shall be provided in writing with an acknowledgment signed by the lessee, regardless of whether the tracking device is original equipment, a retrofit, or an aftermarket product. The requirement for written acknowledgment placed upon the lessor is not imposed upon the manufacturer of the tracking device or the manufacturer of the vehicle;*
- (f) *Tracking device by the parent or guardian of a minor on any vehicle owned or leased by that parent or guardian of the minor, and operated by the minor; or*
- (g) *Tracking device by a police officer while lawfully performing his or her duties as a police officer.*

➔ Section 2. KRS 189A.105 is amended to read as follows:

- (1) A person's refusal to submit to tests under KRS 189A.103 shall result in suspension of his or her driving privilege as provided in this chapter.
- (2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:
 - 1. That, if the person refuses to submit to such tests:
 - a. The fact of this refusal may be used against him or her in court as evidence of violating KRS 189A.010 and will result in suspension of his or her driver's license by the court at the time of arraignment; and
 - b. Is subsequently convicted of violating KRS 189A.010(1):
 - i. For a second or third time within a ten (10) year period, he or she will be subject to a mandatory minimum jail sentence which is twice as long as the mandatory minimum jail sentence imposed if he or she submits to the tests; and
 - ii. His or her license will be suspended by the Transportation Cabinet;
 - 2. That, if a test is taken:
 - a. The results of the test may be used against the person in court as evidence of violating KRS 189A.010(1); and
 - b. The person has the right to have a test or tests of his or her blood performed by a person of his or her choosing described in KRS 189A.103 within a reasonable time of his or her arrest at the expense of the person arrested; and
 - 3. That although his or her license will be suspended, he or she may be eligible immediately for an ignition interlock license allowing him or her to drive during the period of suspension and, if he or she is convicted, he or she will receive a credit toward any other ignition interlock requirement arising from this arrest.
- (b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident. However, if the incident involves a motor vehicle accident in which there was a fatality, the investigating peace officer shall seek such a search warrant for blood testing unless the testing has already been done by consent. If testing done pursuant to a warrant reveals the presence of alcohol or any other substance that impaired the driving ability of a person who is charged and convicted of a violation of KRS 189A.010(1), the sentencing court shall require, in addition to any other sentencing provision, that the defendant make restitution to the state for the cost of the testing.
- (c) 1. *When directed by a peace officer pursuant to a search warrant or other court order issued under this subsection, a qualified medical professional shall withdraw the sample of blood as soon as practicable and shall deliver the sample to the requesting peace officer, or other peace officer as directed by the requesting peace officer, provided that the collection of the sample*

does not jeopardize the person's life, cause serious injury to the person, or seriously impede the person's medical assessment, care, or treatment.

2. *The qualified medical professional authorized to withdraw the blood sample and the medical care facility where the blood sample is drawn shall be considered as acting in good faith once presented with a search warrant or other court order issued under this subsection. The qualified medical professional shall not require the person that is the subject of the test or tests to provide any additional consent.*
 3. *A qualified medical professional who administers any test under this paragraph upon the request of a peace officer, and a medical care facility where any test under this paragraph may be performed, shall not be criminally liable solely for administering the requested test or civilly liable for damages to the person tested solely for administering the requested test except in cases of gross negligence or willful or wanton misconduct.*
- (3) During the period immediately preceding the administration of any test, the person shall be afforded an opportunity of at least ten (10) minutes but not more than fifteen (15) minutes to attempt to contact and communicate with an attorney and shall be informed of this right. Inability to communicate with an attorney during this period shall not be deemed to relieve the person of his or her obligation to submit to the tests and the penalties specified by KRS 189A.010 and 189A.107 shall remain applicable to the person upon refusal. Nothing in this section shall be deemed to create a right to have an attorney present during the administration of the tests, but the person's attorney may be present if the attorney can physically appear at the location where the test is to be administered within the time period established in this section.
- (4) Immediately following the administration of the final test requested by the officer, the person shall again be informed of his or her right to have a test or tests of his or her blood performed by a person of his or her choosing described in KRS 189A.103 within a reasonable time of his or her arrest at the expense of the person arrested. He or she shall then be asked "Do you want such a test?" The officer shall make reasonable efforts to provide transportation to the tests.

Signed by Governor March 31, 2023.

CHAPTER 164

(HB 319)

AN ACT relating to teachers.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

ARTICLE 1

Purpose

It is the purpose of this compact to facilitate the mobility of teachers across the member states, with the goal of supporting teachers through a new pathway to licensure. Through this compact, the member states seek to establish a collective regulatory framework that expedites and enhances the ability of teachers to move across state lines.

This compact is intended to achieve the following objectives:

- A. *Create a streamlined pathway to licensure mobility for teachers;*
- B. *Support the relocation of eligible military spouses;*
- C. *Facilitate and enhance the exchange of teacher licensure, investigative, and disciplinary information between the member states;*
- D. *Enhance the power of state and district level education officials to hire qualified, competent teachers by removing barriers to the employment of out-of-state teachers;*
- E. *Support the retention of teachers in the profession by removing barriers to re-licensure in a new state; and*

F. Maintain state sovereignty in the regulation of the teaching profession.

The member states hereby ratify the same intentions by subscribing hereto.

ARTICLE II

Definitions

As used in this compact, and except as otherwise provided, the following definitions shall govern the terms herein:

- A. "Active military member" means any person with full-time duty status in the uniformed service of the United States, including members of the National Guard and Reserve;*
- B. "Adverse action" means any limitation or restriction imposed by a member state's licensing authority on the licensee's ability to work as a teacher, such as revocation, suspension, reprimand, or probation;*
- C. "Bylaws" means those bylaws established by the commission;*
- D. "Career and technical education license" means a current, valid authorization issued by a member state's licensing authority allowing an individual to serve as a teacher in preschool through twelfth grade public educational settings in a specific career and technical education area;*
- E. "Charter member states" means a member state that has enacted legislation to adopt this compact where such legislation predates the initial meeting of the commission after the effective date of the compact;*
- F. "Commission" means the interstate administrative body whose membership consists of delegates of all states that have enacted this compact and which is known as the Interstate Teacher Mobility Compact Commission;*
- G. "Commissioner" means the delegate of a member state;*
- H. "Eligible license" means a license to engage in the teaching profession, which requires at least a bachelor's degree and the completion of a state-approved program for teacher licensure;*
- I. "Eligible military spouse" means the spouse of an active military member who is relocating as a result of a military mission, military career progression requirement, or a terminal move due to separation, retirement, or death of the member;*
- J. "Executive committee" means a group of commissioners elected or appointed to act on behalf of, and within the powers granted to them by, the commission as provided for herein;*
- K. "Licensing authority" means an official, agency, board, or other entity of a state that is responsible for the licensing and regulation of teachers authorized to teach in preschool through twelfth grade public educational settings;*
- L. "Member state" means any state that has adopted this compact, including all agencies and officials of such a state;*
- M. "Receiving state" means any state that a teacher has applied for licensure under this compact;*
- N. "Rule" means any regulation promulgated by the commission under this compact, which shall have the force of law in each member state;*
- O. "State" means a state, territory, or possession of the United States and the District of Columbia;*
- P. "State practice laws" means a member state's law, rules, and regulations that govern the teaching profession, define the scope of such profession, and create the methods and grounds for imposing discipline;*
- Q. "State specific requirements" means a requirement for licensure covered in coursework or examination that includes content of unique interest to the state;*
- R. "Teacher" means an individual who currently holds an authorization from a member state that forms the basis for employment in the preschool through twelfth grade public schools of the state to provide instruction in a specific subject area, grade level, or student population; and*
- S. "Unencumbered license" means a current, valid eligible license that is not a restricted, probationary, provisional, substitute, or temporary credential.*

ARTICLE III

Licensure Under the Compact

- A. *Licensure under this compact pertains only to the initial grant of a license by the receiving state. Nothing herein applies to any subsequent or ongoing compliance requirements that a receiving state might require for teachers.*
- B. *Each member state shall, in accordance with the rules of the commission, define, compile, and update as necessary, a list of eligible licenses and career and technical education licenses that the member state is willing to consider for equivalency under this compact and provide the list to the commission. The list shall include those licenses that a receiving state is willing to grant to teachers from other member states, pending a determination of equivalency by the receiving state's licensing authority.*
- C. *Upon the receipt of an application for licensure by a teacher holding an unencumbered license, the receiving state shall determine which of the receiving state's eligible licenses the teacher is qualified to hold and shall grant such a license or licenses to the applicant. Such a determination shall be made in the sole discretion of the receiving state's licensing authority and may include a determination that the applicant is not eligible for any of the receiving state's eligible licenses. For all teachers who hold an unencumbered license, the receiving state shall grant one (1) or more unencumbered licenses that, in the receiving state's sole discretion, are equivalent to the license or licenses held by the teacher in any other member state.*
- D. *For active military members and eligible military spouses who hold a license that is not unencumbered, the receiving state shall grant an equivalent license or licenses that, in the receiving state's sole discretion, is equivalent to the license or licenses held by the active military member or eligible military spouse, except where the receiving state does not have an equivalent license.*
- E. *For a teacher holding an unencumbered career and technical education license, the receiving state shall grant an unencumbered license equivalent to the career and technical education license held by the applying teacher and issued by another member state, as determined by the receiving state in its sole discretion, except when a career and technical education teacher does not hold a bachelor's degree and the receiving state requires a bachelor's degree for licenses to teach career and technical education. A receiving state may require career and technical education teachers to meet state industry-recognized requirements, if required by law in the receiving state.*

ARTICLE IV*Licensure Not Under the Compact*

- A. *Except as provided in Article III above, nothing in this compact shall be construed to limit or inhibit the power of a member state to regulate licensure or endorsements overseen by the member state's licensing authority.*
- B. *When a teacher is required to renew a license received pursuant to this compact, the state granting such a license may require the teacher to complete state specific requirements as a condition of licensure renewal or advancement in that state.*
- C. *For the purposes of determining compensation, a receiving state may require additional information from teachers receiving a license under the provisions of this compact.*
- D. *Nothing in this compact shall be construed to limit the power of a member state to control and maintain ownership of its information pertaining to teachers, or limit the application of a member state's laws or regulations governing the ownership, use, or dissemination of information pertaining to teachers.*
- E. *Nothing in this compact shall be construed to invalidate or alter any existing agreement or other cooperative arrangement which a member state may already be a party to or limit the ability of a member state to participate in any future agreement or other cooperative arrangement to:*
 - 1. *Award teaching licenses or other benefits based on additional professional credentials, including but not limited to National Board Certification;*
 - 2. *Participate in the exchange of names of teachers whose licenses have been subject to an adverse action by a member state; or*
 - 3. *Participate in any agreement or cooperative arrangement with a non-member state.*

ARTICLE V*Teacher Qualifications and Requirements for Licensure Under the Compact*

- A. *Except as provided for active military members or eligible military spouses in Article III. D. of this compact, a teacher may only be eligible to receive a license under this compact when that teacher holds an unencumbered license in a member state.*
- B. *A teacher eligible to receive a license under this compact, unless otherwise provided for herein, shall:*
 - 1. *Upon their application to receive a license under this compact, undergo a criminal background check in the receiving state in accordance with the laws and regulations of the receiving state; and*
 - 2. *Provide the receiving state with information in addition to the information required for licensure for the purposes of determining compensation, if applicable.*

ARTICLE VI

Discipline/Adverse Actions

- A. *Nothing in this compact shall be deemed or construed to limit the authority of a member state to investigate or impose disciplinary measures on teachers according to the state practice laws thereof.*
- B. *Member states shall be authorized to receive and shall provide files and information regarding the investigation and discipline, if any, of teachers in other member states upon request. Any member state receiving such information or files shall protect and maintain the security and confidentiality thereof, in at least the same manner that it maintains its own investigatory or disciplinary files and information. Prior to disclosing any disciplinary or investigatory information received from another member state, the disclosing state shall communicate its intention and purpose for such disclosure to the member state that originally provided that information.*

ARTICLE VII

Establishment of the Interstate Teacher Mobility Compact Commission

- A. *The interstate compact member states hereby create and establish a joint public agency known as the Interstate Teacher Mobility Compact Commission. The commission is a joint interstate governmental agency composed of states that have enacted the Interstate Teacher Mobility Compact. Nothing in this interstate compact shall be construed to be a waiver of sovereign immunity.*
- B. *The membership, voting, and meetings provisions are as follows:*
 - 1. *Each member state shall have and be limited to one (1) delegate to the commission, who shall be given the title of commissioner.*
 - 2. *The commissioner shall be the primary administrative officer of the state licensing authority or their designee.*
 - 3. *Any commissioner may be removed or suspended from office as provided by the law of the state from which the commissioner is appointed.*
 - 4. *The member state shall fill any vacancy occurring in the commission within ninety (90) days.*
 - 5. *Each commissioner shall be entitled to one (1) vote about the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for commissioners' participation in meetings by telephone or other means of communication.*
 - 6. *The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.*
- C. *The commission shall have the following powers and duties:*
 - 1. *Establish a code of ethics for the commission;*
 - 2. *Establish the fiscal year of the commission;*
 - 3. *Establish bylaws for the commission;*
 - 4. *Maintain financial records in accordance with the bylaws of the commission;*
 - 5. *Meet and take such actions as are consistent with the provisions of this interstate compact, the bylaws, and the rules of the commission;*

6. *Promulgate uniform rules to implement and administer this interstate compact. The rules shall have the force and effect of law and shall be binding in all member states. In the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect of law;*
 7. *Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any member state licensing authority to sue or be sued under applicable law shall not be affected;*
 8. *Purchase and maintain insurance and bonds;*
 9. *Borrow, accept, or contract for services of personnel, including but not limited to employees of a member state or an associated nongovernmental organization that is open to membership by all states;*
 10. *Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;*
 11. *Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use any property, whether real, personal, or mixed, provided that at all times the commission shall avoid any appearance of impropriety;*
 12. *Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed;*
 13. *Establish a budget and make expenditures;*
 14. *Borrow money;*
 15. *Appoint committees including standing committees composed of members and such other interested persons as may be designated in this interstate compact, rules, or bylaws;*
 16. *Provide and receive information from, and cooperate with, law enforcement agencies;*
 17. *Establish and elect an executive committee;*
 18. *Establish and develop a charter for an executive information governance committee to advise on facilitating exchange of information, use of information, data privacy, and technical support needs, and provide reports as needed;*
 19. *Perform such other functions as may be necessary or appropriate to achieve the purposes of this interstate compact consistent with the state regulation of teacher licensure; and*
 20. *Determine whether a state's adopted language is materially different from the model compact language such that the state would not qualify for participation in the compact.*
- D. *The Executive Committee of the Interstate Teacher Mobility Compact Commission:***
1. *Shall have the power to act on behalf of the commission according to the terms of this interstate compact and the bylaws of the commission;*
 2. *Shall be composed of eight (8) voting members as follows:*
 - a. *The commission chair, vice chair, and treasurer; and*
 - b. *Five (5) members who are elected by the commission from the current membership composed of four (4) voting members representing geographic regions and one (1) at-large voting member in accordance with commission bylaws;*
 3. *May have its members added or removed by the commission as provided in commission bylaws;*
 4. *Shall meet at least once annually; and*
 5. *Shall have the following duties and responsibilities:*

- a. *Make recommendations to the entire commission regarding changes to the rules or bylaws, changes to the compact legislation, fees paid by interstate compact member states such as annual dues, and any compact fee charged by the member states on behalf of the commission;*
- b. *Ensure commission administration services are appropriately provided, contractual or otherwise;*
- c. *Prepare and recommend the budget;*
- d. *Maintain financial records on behalf of the commission;*
- e. *Monitor compliance of member states and provide reports to the commission; and*
- f. *Perform other duties as provided in the rules or bylaws.*

E. Meetings of the Commission:

1. *All meetings shall be open to the public, and public notice of meetings shall be given in accordance with commission bylaws.*
2. *The commission, the executive committee, or other committees of the commission may convene in a closed, nonpublic meeting if the commission, executive committee, or other committees of the commission must discuss:*
 - a. *Noncompliance of a member state with its obligations under the compact;*
 - b. *The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;*
 - c. *Current, threatened, or reasonably anticipated litigation;*
 - d. *Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;*
 - e. *Accusing any person of a crime or formally censuring any person;*
 - f. *Disclosure of trade secrets or commercial or financial information that is privileged or confidential;*
 - g. *Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;*
 - h. *Disclosure of investigative records compiled for law enforcement purposes;*
 - i. *Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact;*
 - j. *Matters specifically exempted from disclosure by federal or member state statute; and*
 - k. *Other matters as set forth by commission bylaws and rules.*
3. *If a meeting, or portion of a meeting, is closed pursuant to this section, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.*
4. *The commission shall keep minutes of meetings of the executive committee, commission, and other committees of the commission and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.*

F. Financing of the Commission:

1. *The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.*
2. *The commission may accept all appropriate donations and grants of money, equipment, supplies, materials, and services, and receive, utilize, and dispose of the same, provided that at all times the commission shall avoid any appearance of impropriety or conflict of interest.*

3. *The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission, in accordance with the commission rules.*
4. *The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.*
5. *The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to accounting procedures established under commission bylaws. All receipts and disbursements of commission funds shall be reviewed annually in accordance with commission bylaws, and a report of the review shall be included in and become part of the annual report of the commission.*

G. *Qualified Immunity, Defense, and Indemnification:*

1. *The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.*
2. *The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.*
3. *The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.*

ARTICLE VIII

Rulemaking

- A. *The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this interstate compact and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.*
- B. *The commission shall promulgate reasonable rules to achieve the intent and purpose of this interstate compact. In the event the commission exercises its rulemaking authority in a manner that is beyond purpose and intent of this interstate compact, or the powers granted hereunder, then such an action by the commission shall be invalid and have no force and effect of law in the member states.*
- C. *If a majority of the legislatures of the member states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact within four (4) years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.*
- D. *Rules or amendments to the rules shall be adopted or ratified at a regular or special meeting of the commission in accordance with commission rules and bylaws.*
- E. *Upon determination that an emergency exists, the commission may consider and adopt an emergency rule with forty-eight (48) hours' notice, with opportunity to comment, provided that the usual rulemaking procedures shall be retroactively applied to the rule as soon as reasonably possible, and in no event later*

than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

- 1. Meet an imminent threat to public health, safety, or welfare;*
- 2. Prevent a loss of commission or member state funds;*
- 3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or*
- 4. Protect public health and safety.*

ARTICLE IX

Facilitating Information Exchange

- A. The commission shall provide for facilitating the exchange of information to administer and implement the provisions of this compact in accordance with the rules of the commission, consistent with generally accepted data protection principles.*
- B. Nothing in this compact shall be deemed or construed to alter, limit, or inhibit the power of a member state to control and maintain ownership of its licensee information or alter, limit, or inhibit the laws or regulations governing licensee information in the member state.*

ARTICLE X

Oversight, Dispute Resolution, and Enforcement

- A. Oversight:*
 - 1. The executive and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact shall have standing as statutory law.*
 - 2. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings. Nothing herein shall affect or limit the selection or propriety of venue in any action against a licensee for professional malpractice, misconduct, or any such similar matter.*
 - 3. All courts and all administrative agencies shall take judicial notice of the compact, the rules of the commission, and any information provided to a member state pursuant thereto in any judicial or quasi-judicial proceeding in a member state pertaining to the subject matter of this compact or which may affect the powers, responsibilities, or actions of the commission.*
 - 4. The commission shall be entitled to receive service of process in any proceeding regarding the enforcement or interpretation of the compact and shall have standing to intervene in such a proceeding for all purposes. Failure to provide the commission service of process shall render a judgment or order void as to the commission, this compact, or promulgated rules.*
- B. Default, Technical Assistance, and Termination:*
 - 1. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide:*
 - a. Written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission; and*
 - b. Remedial training and specific technical assistance regarding the default.*
 - 2. If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the commissioners of the member states, and all rights, privileges, and benefits conferred on that state by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.*
 - 3. Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the*

commission to the governor, the majority and minority leaders of the defaulting state's legislature, the state licensing authority, and each of the member states.

4. *A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.*
5. *The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.*
6. *The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.*

C. Dispute Resolution:

1. *Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.*
2. *The commission shall promulgate a rule providing for both binding and nonbinding alternative dispute resolution for disputes as appropriate.*

D. Enforcement:

1. *The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.*
2. *By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees. The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.*

ARTICLE XI

Effectuation, Withdrawal, and Amendment

- A. *The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state.*
 1. *On or after the effective date of the compact, the commission shall convene and review the enactment of each of the charter member states to determine if the statute enacted by each such charter member state is materially different from the model compact statute.*
 2. *A charter member state whose enactment is found to be materially different from the model compact statute shall be entitled to the default process set forth in Article X.*
 3. *Member states enacting the compact subsequent to the charter member states shall be subject to the process set forth in Article VII. C. 20 to determine if their enactments are materially different from the model compact statute and whether they qualify for participation in the compact.*
- B. *If any member state is later found to be in default, or is terminated or withdraws from the compact, the commission shall remain in existence and the compact shall remain in effect even if the number of member states should be less than ten (10).*
- C. *Any state that joins the compact after the commission's initial adoption of the rules and bylaws shall be subject to the rules and bylaws as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state, as the rules and bylaws may be amended as provided in this compact.*
- D. *Any member state may withdraw from this compact by enacting a statute repealing the same.*

1. *A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.*
 2. *Withdrawal shall not affect the continuing requirement of the withdrawing state's licensing authority to comply with the investigative and adverse action reporting requirements of this compact prior to the effective date of withdrawal.*
- E. *This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.*

ARTICLE XII

Construction and Severability

This compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any member state, a state seeking membership in the compact, or of the United States or the applicability thereof to any other government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any member state, the compact shall remain in full force and effect as to the remaining member states and in full force and effect as to the member state affected as to all severable matters.

ARTICLE XIII

Consistent Effect and Conflict with Other State Laws

- A. *Nothing herein shall prevent or inhibit the enforcement of any other law of a member state that is not inconsistent with the compact.*
- B. *Any laws, statutes, regulations, or other legal requirements in a member state in conflict with the compact are superseded to the extent of the conflict.*
- C. *All permissible agreements between the commission and the member states are binding in accordance with their terms.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *When a school district employee voluntarily leaves the district, the local board of education shall ensure that each employee completes an exit survey in accordance with a policy approved by the board.*
- (2)
 - (a) *The Kentucky Department of Education shall develop a system for school districts to report exit survey information without providing personally identifiable information for use in evaluating factors impacting teacher retainment.*
 - (b) *Information submitted by an employee and reported to the department shall include but not be limited to the position vacated, the employee's years of service in the position and in the district, if the employee is taking a similar position in another district, and the reason or reasons provided for leaving the district.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of this section, "Kentucky Educator Placement Service System" or "system" means the online statewide job posting system operated by the Kentucky Department of Education for vacancies at local school districts and public charter schools.*
- (2) *The Kentucky Department of Education shall ensure that the Kentucky Educator Placement Service System:*
 - (a) *Is accessible through the department's website;*
 - (b) *Includes a mechanism for local school districts and public charter schools to electronically submit job openings for posting on the system as provided in subsection (4) of this section;*
 - (c) *Allows the public to review job postings;*
 - (d) *Allows potential applicants to electronically submit applications and relevant application materials; and*

- (e) *Permits schools districts and public charter schools to access, review, and download applications and application materials.*
- (3) *Each job posting for a vacancy at a school district or public charter school shall include the school district's or public charter school's policy against discrimination in employment.*
- (4) *School districts and public charter schools shall electronically submit all job postings to the system. All postings must include an opening and closing date for each position posted.*
- (5) *The Kentucky Department of Education shall operate and maintain the system to ensure that job postings are current, including tracking each unique position posted, monitoring for repeated position postings, and removing outdated postings, and to collect accurate data about employment in public schools.*
- (6) *Nothing in this section shall:*
 - (a) *Prohibit a school district or public charter school from advertising job openings and recruiting employees independently from the system;*
 - (b) *Prohibit a school district or public charter school from using another method of advertising job openings or another applicant tracking system in addition to the system;*
 - (c) *Require all job applications for posted vacancies to be submitted digitally or only be submitted through the system; or*
 - (d) *Provide the Kentucky Department of Education with any regulatory authority in the hiring process or hiring decisions of any school district or public charter school.*
- (7) *The Kentucky Department of Education shall prepare a report detailing data from the system and its implication for the status of employment in public schools including, but not limited to, the number and type of unique and duplicated job postings, how often postings are viewed by the public, and positions that are remaining vacant by type, certification requirement, and location. The report shall be submitted to the Interim Joint Committee on Education by October 1, 2023, and annually thereafter.*

➔Section 4. KRS 164.769 is amended to read as follows:

- (1) It is the intent of the General Assembly to establish a teacher scholarship program to assist highly qualified individuals to become certified Kentucky teachers and render teaching service in Kentucky schools.
- (2) For purposes of this section, the terms listed below shall have the following meanings:
 - (a) "Critical shortage area" means an understaffing of teachers in particular subject matters at the secondary level, in grade levels, or in geographic locations at the elementary and secondary level, as determined by the commissioner of education in consultation with the authority. The commissioner and the authority may use any source considered reliable, including but not limited to local education agencies, to identify the critical shortage areas;
 - (b) "Dual credit" has the same meaning as in KRS 158.007;
 - (c) "Eligible program of study" means an undergraduate or graduate program of study which is preparatory to teacher certification;
 - (d) "Expected family contribution" means the amount that a student and his family are expected to contribute toward the cost of the student's education determined by applying methodology set forth in 20 U.S.C. sec. 1087 kk to 1087 vv;
 - (e) "Participating institution" means an institution of higher education located in Kentucky which offers an eligible program of study and has in force an agreement with the authority providing for administration of this program;
 - (f) "Qualified teaching service" means teaching the major portion of each school day for at least seventy (70) days each semester in a public school of the Commonwealth or a private school certified pursuant to KRS 156.160(3), except that an individual having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.) or serious and extended illness, whose disability or illness, certified by a licensed physician, prevents that individual from teaching a major portion of each school day, shall be deemed to perform qualified teaching service by teaching the maximum time permitted by the attending physician;

- (g) "Semester" means a period of about eighteen (18) weeks, which usually makes up one-half (1/2) of a school year or one-half (1/2) of a participating institution's academic year; and
 - (h) "Summer term" means an academic period consisting of one (1) or more sessions of instruction between a spring and a fall semester.
- (3) The authority may, to the extent of appropriations and other funds available to it pursuant to subsection (9) of this section, award teacher scholarships to persons eligible under subsection (4) of this section, who initially demonstrate financial need in accordance with standards and criteria established by the authority or received teacher scholarships pursuant to this section prior to July 1, 1996. Each teacher scholarship shall be evidenced by a promissory note that requires repayment or cancellation pursuant to subsection (6) of this section.
- (4) Kentucky residents who are United States citizens and enrolled or accepted for enrollment in an eligible program of study at a participating institution shall be eligible to apply for and be awarded teacher scholarships. Teacher scholarships shall first be awarded to highly qualified eligible students who meet standards and requirements established by the Education Professional Standards Board pursuant to KRS 161.028 for admission to a teacher education program at a participating institution in pursuit of initial teacher certification. If funds are not depleted after awarding teacher scholarships to students who meet the preceding criteria, then awards shall be made to any otherwise eligible students.
- (5) The authority shall establish, by administrative regulation, the maximum amount of scholarship to be awarded for each semester and summer term under this section~~, and shall prorate the amount awarded to any student enrolled less than full time in accordance with subsection (6)(a) of this section. The aggregate amount of scholarships awarded to an individual shall not exceed twelve thousand five hundred dollars (\$12,500) for undergraduate students and seven thousand five hundred dollars (\$7,500) for postbaccalaureate students, except that the aggregate amount of scholarships awarded to an individual who received teacher scholarships pursuant to this section prior to July 1, 1996, including any amount received pursuant to KRS 156.611, 156.613, 164.768, or 164.770, shall not exceed twenty thousand dollars (\$20,000)~~. The amount of each scholarship to be awarded shall not exceed the applicant's total cost of education minus other financial assistance received or expected to be received by the applicant during the academic period.
- (6) (a) The authority shall disburse teacher scholarships to eligible students who agree to render qualified teaching service as certified teachers, and are unconditionally admitted and enrolled in an eligible program of study.
- (b) A teacher scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority pursuant to KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.
- (c) Recipients shall render one (1) semester of qualified teaching service for each semester or summer term of scholarship received, except that recipients who teach in a critical shortage area designated by the authority or teach dual credit coursework in a certified Kentucky high school shall render one (1) semester of qualified teaching service as repayment for two (2) semesters or summer terms of scholarships received. Upon completion of each semester of qualified teacher service, the authority shall cancel the appropriate number of promissory notes.
- (d) If the recipient of a teacher scholarship fails to complete an eligible program of study at a participating institution or fails to render qualified teaching service in any semester following certification or recertification, unless the failure is temporarily waived for cause by the authority, the recipient shall immediately become liable to the authority for repayment of the sum of all outstanding promissory notes and accrued interest. Persons liable for repayment of scholarships under this paragraph shall be liable for interest accruing from the dates on which the teacher scholarships were disbursed.
- (e) Recipients who have outstanding loans or scholarships under KRS 156.611, 156.613, 164.768, or 164.770 respectively, and who render qualified teaching service, shall have their notes canceled in accordance with subsection (6)(c) of this section.
- (f) The authority shall establish, by administrative regulation, the terms and conditions for the award, cancellation, and repayment of teacher scholarships including, but not limited to, the selection criteria, eligibility for renewal awards, amount of scholarship payments, deferments, the rate of repayment, and the interest rate thereon.

- (g) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be ***eight percent (8%)***~~twelve percent (12%)~~ per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.
- (7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of receiving the teacher scholarship.
- (8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of a person's teaching certificate, subject to the procedures set forth in KRS 161.120.
- (9) All moneys repaid to the authority under this section shall be added to the appropriations made for purposes of this section, and the funds and unobligated appropriations shall not lapse.
- (10) The authority may execute appropriate contracts and promissory notes for administering this section.
- (11) Notwithstanding any other statute to the contrary, if available funds are insufficient for all requested scholarships for eligible applicants during any fiscal year, the authority shall give priority consideration to eligible applicants who previously received teacher scholarships and, until June 30, 2018, to loan forgiveness for teachers who have outstanding loan balance eligibility for Best in Class loans issued prior to June 30, 2008. If funds are insufficient to make all requested renewal scholarships to eligible applicants, the authority shall reduce all scholarship awards to the extent necessary to provide scholarships to all qualified renewal applicants. If, after awarding all eligible renewal applicants, funds are not depleted, initial applications shall be ranked according to regulatory selection criteria, which may include expected family contribution and application date, and awards shall be made to highly qualified applicants until funds are depleted.
- (12) ***The authority shall submit a report on the number of teacher scholarships provided in each fiscal year, the program of study in which recipients are enrolled, recipient retention rates, total number of applications, and scholarship recruitment strategies to the Interim Joint Committee on Education by December 1 of each year.***

➔Section 5. KRS 161.048 is amended to read as follows:

- (1) The General Assembly hereby finds that:
- (a)
 1. There are persons who have distinguished themselves through a variety of work and educational experiences that could enrich teaching in Kentucky schools;
 2. There are distinguished scholars who wish to become teachers in Kentucky's public schools, but who did not pursue a teacher preparation program;
 3. There are persons who should be recruited to teach in Kentucky's public schools as they have academic majors, strong verbal skills as shown by a verbal ability test, and deep knowledge of content, characteristics that empirical research identifies as important attributes of quality teachers;
 4. There are persons who need to be recruited to teach in Kentucky schools to meet the diverse cultural and educational needs of students; and
 5. There should be alternative procedures to the traditional teacher preparation programs that qualify persons as teachers;
 - (b) There are hereby established alternative certification program options as described in subsections (2) to (10) of this section;
 - (c) It is the intent of the General Assembly that the Education Professional Standards Board inform scholars, persons with exceptional work experience, and persons with diverse backgrounds who have potential as teachers of these options and assist local boards of education in implementing these options and recruitment of individuals who can enhance the education system in Kentucky;
 - (d) The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs; and
 - (e) The Education Professional Standards Board shall promulgate administrative regulations establishing standards and procedures for the alternative certification options described in this section. ***If the certification option requires employment prior to certification, the procedures shall establish a***

process for candidates to obtain an eligible for hire letter from the Education Professional Standards Board.

- (2) Option 1: Certification of a person with exceptional work experience. An individual who has exceptional work experience and has been offered employment in a local school district shall receive a one (1) year provisional certificate with approval by the Education Professional Standards Board of a joint application by the individual and the employing school district under the following conditions:
- (a) The application contains documentation of all education and work experience;
 - (b) The candidate has documented exceptional work experience in the area in which certification is being sought; and
 - (c) The candidate possesses:
 1. A bachelor's degree or a graduate degree;
 2. A minimum cumulative grade point average of two and seventy-five hundredths (2.75) on a four (4) point scale or a minimum grade point average of three (3.0) on a four (4) point scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution; and
 3. An academic major or a passing score on the academic content assessment in the area in which certification is being sought by the applicant as designated by the Education Professional Standards Board.

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

- (3) Option 2: Certification through a local school district training program. A local school district or group of school districts may seek approval for a training program. The state-approved local school district training program is an alternative to the college teacher preparation program as a means of acquiring teacher certification for a teacher at any grade level. The training program may be offered for all teaching certificates approved by the Education Professional Standards Board, including interdisciplinary early childhood education, except for specific certificates for teachers of exceptional children. To participate in a state-approved local school district alternative training program, the candidate shall possess:
- (a) A bachelor's degree or a graduate degree;
 - (b) A minimum cumulative grade point average of two and seventy-five hundredths (2.75) on a four (4) point scale or a minimum grade point average of three (3) on a four (4) point scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution;
 - (c) A passing score on the academic content assessment in the area in which certification is being sought by the applicant as designated by the Education Professional Standards Board. To be eligible to take an academic content assessment, the applicant shall have completed a thirty (30) hour major in the academic content area or five (5) years of experience in the academic content area as approved by the Education Professional Standards Board; and
 - (d) An offer of employment in a school district which has a training program approved by the Education Professional Standards Board.

Upon meeting the participation requirements as established in this subsection, the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. The candidate shall participate in the teacher internship program under KRS 161.030. After successful completion of the internship program, the candidate shall receive a professional certificate and shall be subject to certificate renewal requirements the same as other teachers with a professional certificate.

- (4) Option 3: Certification of a professional from a postsecondary institution: A candidate who possesses the following qualifications may receive a one (1) year provisional certificate for teaching at any level:
- (a) A master's degree or doctoral degree in the academic content area for which certification is sought;

- (b) A minimum of five (5) years of full-time teaching experience, or its equivalent, in the academic content area for which certification is sought in a regionally or nationally accredited institution of higher education; and
- (c) An offer of employment in a school district which has been approved by the Education Professional Standards Board.

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

- (5) Option 4: Certification of an adjunct instructor. A person who has expertise in areas such as art, music, foreign language, drama, science, computer science, and other specialty areas may be employed as an adjunct instructor in a part-time position by a local board of education under KRS 161.046.
- (6) Option 5: Certification of a veteran of the Armed Forces. The Education Professional Standards Board shall issue a statement of eligibility, valid for five (5) years, for teaching at the elementary, secondary, and secondary career technical education levels to a veteran of the Armed Forces who was honorably discharged from active duty as evidenced by Defense Department Form 214 (DD 214) or National Guard Bureau Form 22 or to a member of the Armed Services currently serving with six (6) or more years of honorable service, including Reserves, National Guard, or active duty. The candidate shall possess:
 - (a) A bachelor's degree or graduate degree;
 - (b) A minimum cumulative grade point average of two and seventy-five hundredths (2.75) on a four (4) point scale or a minimum grade point average of three (3) on a four (4) point scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution; and
 - (c) An academic major or a passing score on the academic content assessment in the area in which certification is being sought by the applicant as designated by the Education Professional Standards Board.

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

- (7) Option 6: University alternative program. With approval of the Education Professional Standards Board, a university may provide an alternative program that enrolls students in a postbaccalaureate teacher preparation program concurrently with employment as a teacher in a local school district. A student in the alternative program shall be granted a one (1) year provisional certificate and shall participate in the Kentucky teacher internship program, notwithstanding provisions of KRS 161.030. A student may not participate in the internship program until the student has successfully completed the assessments required by the board. The one (1) year provisional certificate may be renewed two (2) additional years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the teacher candidate's successful completion of the program, the internship program requirements, and all academic content assessments in the specific teaching field of the applicant as designated by the Education Professional Standards Board.
- (8) Option 7: Certification of a person in a field other than education to teach in elementary, middle, or secondary programs. This option shall not be limited to teaching in shortage areas. An individual certified under provisions of this subsection shall be issued a one (1) year provisional certificate, renewable for a maximum of two (2) additional years with approval of the Education Professional Standards Board.
 - (a) The candidate shall possess:
 1. A bachelor's degree with a declared academic major in the area in which certification is sought or a graduate degree in a field related to the area in which certification is sought;
 2. A minimum cumulative grade point average of two and seventy-five hundredths (2.75) on a four (4) point scale or a minimum grade point average of three (3) on a four (4) point scale on the last thirty (30) hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution;

3. A passing score on the GRE or equivalent as designated by the Education Professional Standards Board. A candidate who has a terminal degree shall be exempt from the requirements of this subparagraph; and
 4. A passing score on the academic content assessment in the area in which certification is being sought as designated by the Education Professional Standards Board.
- (b) Prior to receiving the one (1) year provisional certificate or during the first year of the certificate, the teacher shall complete the following:
1. For elementary teaching, the individual shall successfully complete the equivalent of a two hundred forty (240) hour institute, based on six (6) hour days for eight (8) weeks. The providers and the content of the institute shall be approved by the Education Professional Standards Board. The content shall include research-based teaching strategies in reading and math, research on child and adolescent growth, knowledge of individual differences, including teaching exceptional children, and methods of classroom management.
 2. For middle and secondary teaching, the individual shall successfully complete the equivalent of a one hundred eighty (180) hour institute, based on six (6) hour days for six (6) weeks. The providers and the content of the institute shall be approved by the Education Professional Standards Board and shall include research-based teaching strategies, research on child and adolescent growth, knowledge of individual differences, including teaching exceptional children, and methods of classroom management.
- (c) The candidate shall participate in the teacher internship program under KRS 161.030. After successful completion of the internship program, the candidate shall receive a professional certificate and shall be subject to certificate renewal requirements the same as other teachers with a professional certificate.
- (9) Option 8: Certification of a Teach for America participant to teach in elementary, middle, or high schools. Nothing in this subsection shall conflict with the participation criteria of the Teach for America program. An individual certified under this subsection shall be issued a one (1) year provisional certificate.
- (a) The candidate shall possess:
1. An offer of employment from a local school district;
 2. A bachelor's degree;
 3. A successful completion of the summer training institute and ongoing professional development required by Teach for America, including instruction in goal-oriented, standards-based instruction, diagnosing and assessing students, lesson planning and instructional delivery, classroom management, maximizing learning for diverse students, and teaching methodologies; and
 4. A passing score on the academic content assessment in the area in which certification is being sought as designated by the Education Professional Standards Board.
- (b) The provisional certificate granted under paragraph (a) of this subsection may be renewed two (2) times with a recommendation of the superintendent and approval of the Education Professional Standards Board.
- (c) A Teach for America participant who is approved for a second renewal of his or her provisional certificate under paragraph (b) of this subsection may participate in the teacher internship program under KRS 161.030.
- (d) A Teach for America participant shall be issued a professional certificate upon the participant's successful completion of the internship program and assessments relating to teaching of subject matter required by the Education Professional Standards Board under KRS 161.030.
- (e) Notwithstanding any statute or administrative regulation to the contrary, a teacher certified under this subsection shall have ten (10) years from the date that the teacher successfully completed the internship program to complete a master's degree or fifth year program, or the equivalent as specified by the Education Professional Standards Board in administrative regulation.
- (10) Option 9: Expedited certification of a person to teach at any grade level through a cooperative program. With approval of the Education Professional Standards Board, a college or university may partner with a

school district to develop an expedited certification program that results in a bachelor's degree and initial certification within three (3) school years.

- (a) The program shall:
 - 1. Include a residency or paraprofessional component which employs the person within the participating district for the duration of the program to gain work experience to supplement the expedited program and reduced coursework;
 - 2. Utilize experienced teachers employed by the district to provide coaching and to mentor the candidates; and
 - 3. Be designed to meet the needs of the participating district and may include an emphasis in developing a teacher pipeline for the district's students, improving the numbers of underrepresented populations among the district's workforce, or focusing on increasing the number of teachers with certification areas that are in high demand.
 - (b) A school district entering into a cooperative partnership shall ensure the availability of funding for each candidate employed within the district in the residency or paraprofessional program for the duration of the candidate's participation in the program. However, nothing in this subsection shall be interpreted as requiring the district to continue employing the candidate during the program or after the candidate has received initial certification.
 - (c) A person who has begun a traditional path or another option for certification shall be eligible to transfer into this option if the person meets the program's requirements.
 - (d) If a school district participating in a cooperative partnership determines to end the partnership, the district shall no longer accept new candidates to the program but shall continue the partnership until the district's employed candidates for Option 9 certification complete the program or are no longer employed by the district.
- (11) A public school teacher certified under subsections (2) to (10) of this section shall be placed on the local district salary schedule for the rank corresponding to the degree held by the teacher.
- (12) Subsections (1) to (3) of this section notwithstanding, a candidate who possesses the following qualifications may receive certification for teaching programs for exceptional students:
- (a) An out-of-state license to teach exceptional students;
 - (b) A bachelor's or master's degree in the certification area or closely related area for which certification is sought; and
 - (c) Successful completion of the teacher internship program requirement required under KRS 161.030.

➔Section 6. KRS 160.380 is amended to read as follows:

- (1) As used in this section:
- (a) "Administrative finding of child abuse or neglect" means a substantiated finding of child abuse or neglect issued by the Cabinet for Health and Family Services that is:
 - 1. Not appealed through an administrative hearing conducted in accordance with KRS Chapter 13B;
 - 2. Upheld at an administrative hearing conducted in accordance with KRS Chapter 13B and not appealed to a Circuit Court; or
 - 3. Upheld by a Circuit Court in an appeal of the results of an administrative hearing conducted in accordance with KRS Chapter 13B;
 - (b) "Alternative education program" means a program that exists to meet the needs of students that cannot be addressed in a traditional classroom setting but through the assignment of students to alternative classrooms, centers, or campuses that are designed to remediate academic performance, improve behavior, or provide an enhanced learning experience. Alternative education programs do not include career or technical centers or departments;
 - (c) "Clear CA/N check" means a letter from the Cabinet for Health and Family Services indicating that there are no administrative findings of child abuse or neglect relating to a specific individual;

- (d) "Relative" means father, mother, brother, sister, husband, wife, son and daughter; and
 - (e) "Vacancy" means any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.
- (2) Except as provided in KRS 160.346, the school district personnel actions identified in this section shall be carried out as follows:
- (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself or herself to another position within the school district;
 - (b) When a vacancy occurs in a local school district, the superintendent shall ***submit the job posting to the statewide job posting system described in Section 3 of this Act fifteen (15) days before the position shall be filled***~~notify the chief state school officer fifteen (15) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public.~~ The local school district shall post position openings in the local board office for public viewing;
 - (c) When a vacancy needs to be filled in less than fifteen (15) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days; and
 - (d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.
- (3) Restrictions on employment of relatives shall be as follows:
- (a) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office and who is qualified for the position the employee holds. A superintendent's spouse who has previously been employed in a school system may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection;
 - (b) No superintendent shall employ a relative of a school board member of the district;
 - (c) No principal's relative shall be employed in the principal's school; and
 - (d) A relative that is ineligible for employment under paragraph (a), (b), or (c) of this subsection may be employed as a substitute for a certified or classified employee if the relative is not:
 1. A regular full-time or part-time employee of the district;
 2. Accruing continuing contract status or any other right to continuous employment;
 3. Receiving fringe benefits other than those provided other substitutes or
 4. Receiving preference in employment or assignment over other substitutes.

- (4) No superintendent shall assign a certified or classified staff person to an alternative education program as part of any disciplinary action taken pursuant to KRS 161.011 or 161.790 as part of a corrective action plan established pursuant to the local district evaluation plan.
- (5) No superintendent shall initially employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony or persons with an administrative finding of child abuse or neglect in records maintained by the Cabinet for Health and Family Services. The superintendent may employ, at his discretion, except at a Kentucky Educational Collaborative for State Agency Children program, persons convicted of sex crimes classified as a misdemeanor.
- (6) Requirements for background checks shall be as follows:
 - (a) A superintendent shall require the following individuals to submit to a national and state criminal background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a clear CA/N check, provided by the individual:
 1. Each new certified or classified hire;
 2. A nonfaculty coach or nonfaculty assistant as defined under KRS 161.185;
 3. A student teacher;
 4. A school-based decision making council parent member; and
 5. Any adult who is permitted access to school grounds on a regularly scheduled and continuing basis pursuant to a written agreement for the purpose of providing services directly to a student or students as part of a school-sponsored program or activity;
 - (b)
 1. The requirements of paragraph (a) of this subsection shall not apply to:
 - a. Classified and certified individuals employed by the school district prior to June 27, 2019;
 - b. Certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check and who have a clear CA/N check for the previous employment; or
 - c. Student teachers who have submitted to and provide a copy of a national and state criminal background check by the Department of Kentucky State Police and the Federal Bureau of Investigation through an accredited teacher education institution in which the student teacher is enrolled and who have a clear CA/N check.
 2. The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544;
 - (c) A parent member may serve prior to the receipt of the criminal history background check and CA/N letter required by paragraph (a) of this subsection but shall be removed from the council on receipt by the school district of a report documenting a record of abuse or neglect, or a sex crime or criminal offense against a victim who is a minor as defined in KRS 17.500, or as a violent offender as defined in KRS 17.165, and no further procedures shall be required; and
 - (d) A superintendent may require a volunteer or a visitor to submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a clear CA/N check, provided by the individual.
- (7)
 - (a) If a certified or classified position remains unfilled after July 31 or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check and a clear CA/N check, provided by the individual. Application for the criminal record and a request for a clear CA/N check of a probationary employee shall be made no later than the date probationary employment begins.
 - (b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165 and receipt of a letter, provided by the individual, from the Cabinet for Health and Family Services stating the employee is clear to hire based on no administrative findings of child abuse or

neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.

- (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.
- (8) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165, or on the basis of a CA/N check showing an administrative finding of child abuse or neglect.
- (9)
 - (a) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Department of Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police, the Federal Bureau of Investigation, and the Cabinet for Health and Family Services shall be an amount no greater than the actual cost of processing the request and conducting the search.
 - (b) Each application form, provided by the employer to an applicant for a certified or classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AND A LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET FOR HEALTH AND FAMILY SERVICES STATING THE APPLICANT HAS NO ADMINISTRATIVE FINDINGS OF CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET FOR HEALTH AND FAMILY SERVICES."
 - (c) Each application form for a district position shall require the applicant to:
 - 1. Identify the states in which he or she has maintained residency, including the dates of residency; and
 - 2. Provide picture identification.
- (10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, when an employee of the school district is charged with any offense which is classified as a felony, the superintendent may transfer the employee to a second position until such time as the employee is found not guilty, the charges are dismissed, the employee is terminated, or the superintendent determines that further personnel action is not required. The employee shall continue to be paid at the same rate of pay he or she received prior to the transfer. If an employee is charged with an offense outside of the Commonwealth, this provision may also be applied if the charge would have been treated as a felony if committed within the Commonwealth. Transfers shall be made to prevent disruption of the educational process and district operations and in the interest of students and staff and shall not be construed as evidence of misconduct.
- (11) Notwithstanding any law to the contrary, each certified and classified employee of the school district shall notify the superintendent if he or she has been found by the Cabinet for Health and Family Services to have abused or neglected a child, and if he or she has waived the right to appeal a substantiated finding of child abuse or neglect or if the substantiated incident was upheld upon appeal. Any failure to report this finding shall result in the certified or classified employee being subject to dismissal or termination.
- (12) The form for requesting a CA/N check shall be made available on the Cabinet for Health and Family Services Web site.

➔Section 7. The Kentucky Department of Education's Office of Educator Licensure and Effectiveness shall undertake a review of the alternative pathway teacher certification options and processes and the level of participation in each to identify areas for improvement, including but not limited to duplication, inefficiencies, and unnecessary or outdated requirements that cause barriers to candidates and option providers seeking to use alternative teacher pathways to fill needed teacher shortages. The department's review shall include applicable statutes, administrative regulations, and board and internal policies. The department shall present its findings to the Interim Joint Committee on Education by October 1, 2023.

➔Section 8. (1) Notwithstanding any statute or administrative regulation to the contrary, beginning July 1, 2023, a one-year interim certificate, renewable for a maximum of two years, shall be issued by the Education Professional Standards Board to a candidate who:

- (a) Has a bachelor's degree or higher;
- (b) Has at least four years of work experience in the area in which certification is being sought; and
- (c) Meets all other requirements of this section.

(2) If certification is being sought in the area of career and technical education, the bachelor's degree requirement shall be satisfied by an additional four years of work experience in the area.

(3) An individual certified under this section shall:

- (a) Be assigned a teacher mentor by the hiring school district for support in teaching pedagogy;
- (b) Complete, within the first 90 days of employment, the suicide prevention, active shooter, and child abuse and neglect trainings required under KRS 156.095;
- (c) Be subject to the criminal history background and CA/N checks under KRS 160.380; and
- (d) Not provide special education instruction.

(4) An employment agreement entered into by an individual certified under this section shall not be subject to a collective bargaining agreement.

(5) No more than ten percent of a school district's certified staff may be certified under this section in a school year.

(6) The provisions of this section and all certificates issued under this section shall expire on June 30, 2026.

(7) The Education Professional Standards Board shall promulgate administrative regulations in accordance with KRS Chapter 13A as may be needed to issue interim certificates under this section, including emergency regulations as appropriate, to expedite the implementation of this section.

➔Section 9. KRS 161.155 is amended to read as follows:

(1) As used in this section:

- (a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;
- (b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;
- (c) "Immediate family" shall mean the teacher's or employee's spouse, children including stepchildren and foster children, grandchildren, daughters-in-law and sons-in-law, brothers and sisters, parents and spouse's parents, and grandparents and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's or employee's home;
- (d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers or employees for use by teachers or employees who have exhausted all sick leave and other available paid leave days; and
- (e) "Assault" shall mean an act that intentionally causes injury so significant that the victim is determined to be, by certification of a physician or surgeon duly qualified under KRS Chapter 342, incapable of performing the duties of his or her job.

(2) Each district board of education shall allow to each teacher and full-time employee in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher or employee if he or she presents a personal ~~statement~~^{affidavit} or a certificate of a physician stating that the teacher or employee was ill, that the teacher or employee was absent for the purpose of attending to a member of his or her immediate family who was ill, or for the purpose of mourning a member of his or her immediate family. The ten (10) days of sick leave granted in this subsection may be taken by a teacher or employee on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher or employee under the provisions of subsection (4) of this section.

- (3) A school district shall coordinate among the income and benefits from workers' compensation, temporary disability retirement, and district payroll and benefits so that there is no loss of income or benefits to a teacher or employee for work time lost because of an assault while performing the teacher's or employee's assigned duties for a period of up to one (1) year after the assault. In the event a teacher or employee suffers an assault while performing his or her assigned duties that results in injuries that qualify the teacher or employee for workers' compensation benefits, the district shall provide leave to the teacher or employee for up to one (1) year after the assault with no loss of income or benefits under the following conditions:
- (a) The district shall pay the salary of the teacher or employee between the time of the assault and the time the teacher's or employee's workers' compensation income benefits take effect, or the time the teacher or employee is certified to return to work by a physician or surgeon duly qualified under KRS Chapter 342, whichever is sooner;
 - (b) The district shall pay, for up to one (1) year from the time of the assault, the difference between the salary of the teacher or employee and any workers' compensation income benefits received by the teacher or employee resulting from the assault. Payments by the district shall include payments for intermittent work time missed as a result of the assault during the one (1) year period. If the teacher's or employee's workers' compensation income benefits cease during the one (1) year period after the assault, the district shall also cease to make payments under this paragraph;
 - (c) The Commonwealth, through the Kentucky Department of Education, shall make the employer's health insurance contribution during the period that the district makes payments under paragraphs (a) and (b) of this subsection;
 - (d) The Commonwealth, through the Kentucky Department of Education, shall make the employer's contribution to the retirement system in which the teacher or employee is a member during the period that the district makes payments under paragraphs (a) and (b) of this subsection; and
 - (e) Payments to a teacher or employee under paragraphs (a) and (b) of this subsection shall be coordinated with workers' compensation benefits under KRS Chapter 342, disability retirement benefits for teachers under KRS 161.661 to 161.663, and disability retirement benefits for employees under KRS 61.600 to 61.621 and 78.5522, 78.5524, 78.5526, 78.5528, and 78.5530 so that the teacher or employee receives income equivalent to his or her full contracted salary, but in no event shall the combined payments exceed one hundred percent (100%) of the teacher's or employee's full contracted salary.
- (4) Days of sick leave not taken by an employee or a teacher during any school year shall accumulate without limitation and be credited to that employee or teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow employees or teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to an employee or a teacher shall remain so credited in the event he or she transfers his or her place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district.
- (5) Accumulated days of sick leave shall be granted to a teacher or employee if, prior to the opening day of the school year, **a statement**~~(an affidavit)~~ or a certificate of a physician is presented to the district board of education, stating that the teacher or employee is unable to commence his or her duties on the opening day of the school year, but will be able to assume his or her duties within a period of time that the board determines to be reasonable.
- (6) Any school teacher or employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.
- (7) A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher or employee may annually contribute to the bank and limitations upon the number of days a teacher or employee may annually draw from the bank. Only those teachers or employees who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher or employee. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.
- (8) (a) A district board of education shall establish a sick leave donation program to permit teachers or employees to voluntarily contribute sick leave to teachers or employees in the same school district who

are in need of an extended absence from school. A teacher or employee who has accrued more than fifteen (15) days' sick leave may request the board of education to transfer a designated amount of sick leave to another teacher or employee who is authorized to receive the sick leave donated. A teacher or employee may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.

- (b) A teacher or employee may receive donations of sick leave if:
1. a. The teacher or employee or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher or employee to be absent for at least ten (10) days; or
 - b. The teacher or employee suffers from a catastrophic loss to his or her personal or real property, due to either a natural disaster or fire, that either has caused or will likely cause the employee to be absent for at least ten (10) consecutive working days;
 2. The teacher's or employee's need for the absence and use of leave are certified by a licensed physician for leave requested under subparagraph 1.a. of this subsection;
 3. The teacher or employee has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and
 4. The teacher or employee has complied with the school district's policies governing the use of sick leave.
- (c) While a teacher or employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.
- (d) Any sick leave that remains unused, is not needed by a teacher or employee, and will not be needed in the future shall be returned to the teacher or employee donating the sick leave.
- (e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.
- (9) A teacher or employee may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.
- (10) (a) After July 1, 1982, a district board of education may compensate, at the time of retirement or upon the death of a member in active contributing status at the time of death who was eligible to retire by reason of service, an employee or a teacher, or the estate of an employee or teacher, for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%).
- (b) Except as provided in paragraph (c) of this subsection, payment for unused sick leave days under this subsection shall be incorporated into the annual salary of the final year of service for inclusion in the calculation of the employee's or teacher's retirement allowance only at the time of his or her initial retirement, provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.
- (c) For a teacher or employee who becomes a nonuniversity member of the Teachers' Retirement System on or after January 1, 2022, as provided by KRS 161.220, payment for unused sick leave days under this subsection shall not be incorporated into the annual compensation used to calculate the teacher's or employee's retirement allowance in the foundational benefit component as described by KRS 161.633 but may be deposited into the nonuniversity member's supplemental benefit component as provided by KRS 161.635.
- (d) For a teacher or employee who begins employment with a local school district on or after July 1, 2008, the maximum amount of unused sick leave days a district board of education may recognize in calculating the payment of compensation to the teacher or employee under this subsection shall not exceed three hundred (300) days.

- (11) Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection (10) of this section.
- (12) The death benefit provided in subsection (10) of this section may be cited as the Baughn Benefit.
- ➔Section 10. KRS 161.154 is amended to read as follows:
- (1) For the purpose of this section, "school employees" shall mean any person for whom certification is required as a basis of employment in the public schools.
- (2) Each district board of education may provide up to three (3) personal leave days per school year to school employees, without loss of salary to the employee and without affecting any other type of leave granted by law, regulation, or school board policy. Local boards of education may establish policy regarding the number of teachers who may take personal leave on any one (1) day.
- (3) Personal leave granted under this section shall not be treated as having effect on the provisions of KRS 161.152 to 161.155 and shall be supported by personal ~~statement~~^{affidavit} of the school employee stating that the leave taken is personal in nature; no other reason for or verification of the leave shall be required.
- (4) Payments to school employees made by a district board of education under the provisions of this section are presumed to be for services rendered and for the benefit of the common schools and such payments do not affect the eligibility of any school district to share in the distribution of funds from the public school foundation program fund as established in KRS Chapter 157.

Signed by Governor March 31, 2023.

CHAPTER 165

(HB 331)

AN ACT relating to the emergency medical preparedness of schools.

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

➔Section 1. KRS 158.162 is amended to read as follows:

- (1) As used in this section:
- (a) "Emergency management response plan" or "emergency plan" means a written document to prevent, mitigate, prepare for, respond to, and recover from emergencies; and
- (b) "First responders" means local fire, police, and emergency medical personnel.
- (2) (a) Each local board of education shall require the school council or, if none exists, the principal in each school building in its jurisdiction to adopt an emergency plan. **The emergency plan shall**~~to~~ include:
1. Procedures to be followed in case of **medical emergency**, fire, severe weather,~~or~~ earthquake, or~~if~~ a building lockdown as defined in KRS 158.164;~~is required.~~
 2. **A written cardiac emergency response plan; and**
 - 3.~~(b)~~~~Following adoption, the emergency plan, along with~~ A diagram of the facility~~;~~ **that clearly identifies the location of each automated external defibrillator.**
- (b) **The emergency plan** shall be provided to appropriate first responders **and all school staff**.
- (c) The emergency plan shall be reviewed following the end of each school year by the **school nurse**, school council, the principal, and first responders and ~~shall be~~ revised as needed.
- (d) The principal shall discuss the emergency plan with all school staff prior to the first instructional day of each school year and~~shall~~ document the time and date of any discussion.

- (e) ***The cardiac emergency response plan shall be rehearsed by simulation prior to the beginning of each athletic season by all:***
1. ***Licensed athletic trainers, school nurses, and athletic directors; and***
 2. ***Interscholastic coaches and volunteer coaches of each athletic team active during that athletic season.***
- (f) The emergency plan ~~and diagram of the facility~~ shall be excluded from the application of KRS 61.870 to 61.884.
- (3) Each local board of education shall require the school council or, if none exists, the principal in each school building to:
- (a) Establish primary and secondary evacuation routes for all rooms located within the school and shall post the routes in each room by any doorway used for evacuation;
 - (b) Identify the best available severe weather safe zones, in consultation with local and state safety officials and informed by guiding principles set forth by the National Weather Service and the Federal Emergency Management Agency, and post the location of safe zones in each room of the school;
 - (c) Develop practices for students to follow during an earthquake; ~~and~~
 - (d) Develop and adhere to practices to control the access to each school building. Practices shall include but not be limited to:
 1. Controlling outside access to exterior doors during the school day;
 2. Controlling the main entrance of the school with electronically locking doors, a camera, and an intercom system;
 3. Controlling access to individual classrooms;
 4. Requiring classroom doors to be equipped with hardware that allows the door to be locked from the outside but opened from the inside;
 5. Requiring classroom doors to remain closed and locked during instructional time, except:
 - a. In instances in which only one (1) student and one (1) adult are in the classroom; or
 - b. When approved in writing by the state school security marshal;
 6. Requiring classroom doors with windows to be equipped with material to quickly cover the window during a building lockdown;
 7. Requiring all visitors to report to the front office of the building, provide valid identification, and state the purpose of the visit; and
 8. Providing a visitor's badge to be visibly displayed on a visitor's outer garment;
 - (e) ***Maintain a portable automated external defibrillator in a public, readily accessible, well-marked location in every middle and high school building and, as funds become available, at school-sanctioned middle and high school athletic practices and competitions and:***
 1. ***Adopt procedures for the use of the portable automated external defibrillator during an emergency;***
 2. ***Adopt policies for compliance with KRS 311.665 to 311.669 on training, maintenance, notification, and communication with the local emergency medical services system;***
 3. ***Ensure that a minimum of three (3) employees in the school and all interscholastic athletic coaches be trained on the use of a portable automated external defibrillator in accordance with KRS 311.667; and***
 4. ***Ensure that all interscholastic athletic coaches maintain a cardiopulmonary resuscitation certification recognized by a national accrediting body on heart health; and***
 - (f) ***Require development of an event-specific emergency action plan for each school-sanctioned nonathletic event held off-campus to be used during a medical emergency, which may include the provision of a portable automated external defibrillator. The plan shall:***

1. ***Include a delineation of the roles of staff and emergency personnel, methods of communication, any assigned emergency equipment including a portable automated external defibrillator, a cardiac emergency response plan, and access to and plan for emergency transport; and***
 2. ***Be in writing and distributed to any member of school personnel attending the school-sanctioned event in an official capacity.***
- (4) All schools shall be in compliance with the provisions of subsection (3)(d) of this section~~[as soon as practicable but]~~ no later than July 1, 2022.
- (5) (a) Each local board of education shall require the principal in each public school building in its jurisdiction to conduct, at a minimum, emergency response drills to include:
1. One (1) severe weather drill, one (1) earthquake drill, and one (1) lockdown drill within the first thirty (30) instructional days of each school year and again during the month of January; ***and***
 2. ***The emergency response plan rehearsal by simulation required by subsection (2) of this section and the venue-specific emergency action plan rehearsal by simulation required by subsection (5) of Section 4 of this Act prior to the beginning of each athletic season.***
- (b) Required fire drills shall be conducted according to administrative regulations promulgated by the Department of Housing, Buildings and Construction. Whenever possible, first responders shall be invited to observe emergency response drills.
- (6) No later than November 1 of each school year, a local district superintendent shall send verification to the Kentucky Department of Education that all schools within the district are in compliance with the requirements of this section.
- (7) A district with a school not in compliance with the requirements of subsection (3)(d) of this section by July 1, 2022, shall not be eligible for approval by the Kentucky Department of Education for new building construction or expansion in the 2022-2023 school year and any subsequent year without verification of compliance, except for facility improvements that specifically address the school safety and security requirements of this section, when deemed necessary for the protection of student or staff health and safety, or to comply with other legal requirements or orders.

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

- (1) ***By August 1 of each year, each school district shall report to the Kentucky Department of Education on the number of portable automated external defibrillators at each school within the district.***
- (2) ***By October 1 of each year, the Kentucky Department of Education shall publish a report on the number of portable automated external defibrillators in Kentucky public schools by school and school district to the department's website and submit the report to the General Assembly's Interim Joint Committee on Education and Interim Joint Committee on Health, Welfare, and Family Services.***

➔Section 3. KRS 158.302 is amended to read as follows:

- (1) The General Assembly hereby finds that training Kentucky students in cardiopulmonary resuscitation procedures will:
 - (a) Increase students' ability to respond to emergency situations at school, home, and public places;
 - (b) Benefit Kentucky communities by rapidly increasing the number of people ready to respond to sudden cardiac arrest, a leading cause of death in the United States; and
 - (c) Assist students in becoming responsible citizens consistent with the goals established in KRS 158.6451.
- (2) Every public high school shall provide cardiopulmonary resuscitation training to students as part of the health course or the physical education course that is required for high school graduation or the Junior Reserve Officers Training Corps course that meets the physical education requirement. The training shall:
 - (a) Be based on the ~~[American Heart Association's guidelines for CPR and Emergency Cardiovascular Care or other]~~ nationally recognized, evidenced-based guidelines ***for cardiopulmonary resuscitation certification published by a national accrediting body on heart health;***
 - (b) Incorporate psychomotor skills training to support cognitive learning; and
 - (c) Make students aware of the purpose of an automated external defibrillator and its ease and safety of use.

- (3) The training does not have to be provided by a certified instructor or result in students being certified in cardiopulmonary resuscitation.
- (4) A school administrator may waive the requirement that a student receive instruction under subsection (2) of this section if the student has a disability or is physically unable to perform the psychomotor skills component of the instruction required.

~~[(5) This section shall not be construed to require a school to have an automated external defibrillator on its premises, although having one available for emergencies is encouraged.]~~

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

- (1) *There is hereby created a trust and agency account to be known as the School AED Fund to be administered by the Cabinet for Health and Family Services, in collaboration with the Department of Education. Amounts deposited in the fund shall be used for the purpose of awarding needs-based grants to public schools for:*
 - (a) *The purchase and maintenance of portable automated external defibrillators; and*
 - (b) *The provision of cardiopulmonary resuscitation training.*
- (2) *The School AED Fund shall consist of any:*
 - (a) *Appropriations designated for the fund;*
 - (b) *Funds, grants, and receipts from fundraising activities on behalf of the fund; and*
 - (c) *Other moneys made available for the purposes of the fund.*
- (3) *Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.*
- (4) *Any interest earnings of the fund shall become a part of the fund and shall not lapse.*
- (5) *Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.*
- (6) *Nothing in this section shall be interpreted to restrict the ability of a school or school district to accept direct private donations for the purchase or maintenance of an automated external defibrillator.*

➔Section 5. KRS 160.445 is amended to read as follows:

- (1) (a) The Kentucky Board of Education or organization or agency designated by the board to manage interscholastic athletics shall require each interscholastic coach to complete a sports safety course consisting of training on how to prevent common injuries. The content of the course shall include but not be limited to emergency planning, heat and cold illnesses, emergency recognition, head injuries including concussions, neck injuries, facial injuries, ***cardiopulmonary resuscitation, use of a portable automated external defibrillator in accordance with KRS 311.667,*** and principles of first aid. The course shall also be focused on safety education and shall not include coaching principles.
- (b) The state board or its agency shall:
 1. Establish a minimum timeline for a coach to complete the course;
 2. Approve providers of a sports safety course;
 3. Be responsible for ensuring that an approved course is taught by qualified professionals who shall either be athletic trainers, registered nurses, physicians, or physician's assistants licensed to practice in Kentucky;~~and~~
 4. Establish the minimum qualifying score for successful course completion; ***and***
 5. ***Require a coach to earn a cardiopulmonary resuscitation certification recognized by a national accrediting body on heart health.***
- (c) A course shall be reviewed for updates at least once every thirty (30) months and revised if needed.
- (d) A course shall be able to be completed through hands-on or online teaching methods in ten (10) clock hours or less.

- (e) 1. A course shall include an end-of-course examination with a minimum qualifying score for successful course completion established by the board or its agency.
2. All coaches shall be required to take the end-of-course examination and shall obtain at least the minimum qualifying score.
- (f) ~~Beginning with the 2009-2010 school year, and each year thereafter,~~ At least one (1) person who has completed the course shall be at every interscholastic athletic practice and competition.
- (2) (a) ~~Beginning with the 2012-2013 school year, and each year thereafter,~~ The state board or its agency shall require each interscholastic coach to complete training on how to recognize the symptoms of a concussion and how to seek proper medical treatment for a person suspected of having a concussion. The training shall be approved by the state board or its agency and may be included in the sports safety course required under subsection (1)(a) of this section.
- (b) The board or its agency shall develop guidelines and other pertinent information or adopt materials produced by other agencies to inform and educate student athletes and their parents or legal guardians of the nature and risk of concussion and head injury, including the continuance of play after concussion or head injury. Any required physical examination and parental authorization shall include acknowledgement of the education information required under this paragraph.
- (c) Upon request, the board or its agency shall make available to the public any training materials developed by the board or agency used to satisfy the requirements of paragraph (a) of this subsection. The board or its agency shall not be held liable for the use of any training materials so disseminated.
- (3) (a) A student athlete suspected by an interscholastic coach, school athletic personnel, or contest official of sustaining a concussion during an athletic practice or competition shall be removed from play at that time and shall not return to play prior to the ending of the practice or competition until the athlete is evaluated to determine if a concussion has occurred. The evaluation shall be completed by a physician or a licensed health care provider whose scope of practice and training includes the evaluation and management of concussions and other brain injuries. A student athlete shall not return to play on the date of a suspected concussion absent the required evaluation.
- (b) 1. Upon completion of the required evaluation, a coach:
- a. May return a student athlete to play if the physician or licensed health care provider determines that no concussion has occurred; or
- b. Shall not return a student athlete to play if the physician or licensed health care provider determines that a concussion has occurred.
2. If no physician or licensed health care provider described in paragraph (a) of this subsection is present at the practice or competition to perform the required evaluation, a coach shall not return a student athlete to play who is suspected of sustaining a concussion. The student athlete shall not be allowed to participate in any subsequent practice or athletic competition unless written clearance from a physician is provided.
- (c) A student athlete deemed to be concussed shall not return to participate in any athletic practice or competition occurring on the day of the injury. The injured student athlete shall not be allowed to participate in any subsequent practice or athletic competition unless written clearance from a physician is provided.
- (4) ***The state board or its agency shall adopt rules governing interscholastic athletics that encourage each school that participates in interscholastic athletics to provide access to at least one (1) portable automated external defibrillator in a public, readily accessible, well-marked location at each school-sanctioned athletic practice or competition, including any practice or competition held off campus.***
- (5) ~~(a)~~ The state board or its agency shall adopt rules governing interscholastic athletics conducted by local boards of education to require each school that participates in interscholastic athletics to develop a venue-specific emergency action plan to deal with serious injuries and acute medical conditions in which the condition of the patient may deteriorate rapidly. The plan shall:
- (a) ~~1.~~ Include a delineation of ***the roles of staff and emergency personnel***~~[role]~~, methods of communication, available emergency equipment, and access to and plan for emergency transport; ~~and~~

(b)~~[2-]~~ *If one is available, identify the location of a portable automated external defibrillator and the procedures for its use during an emergency; and*

(c) Be in writing, reviewed by the principal of the school, distributed to all appropriate personnel, posted conspicuously at all venues, and reviewed *annually* and rehearsed *by simulation prior to the beginning of each athletic season*~~[annually]~~ by all:

1. Licensed athletic trainers, first responders, ~~[coaches,]~~ school nurses, athletic directors;~~[,]~~ and
2. *Interscholastic coaches and volunteer coaches of each athletic team active during that athletic season*~~[volunteers for interscholastic athletics].~~

(6)~~[(b)]~~ Each school shall submit annual written *certification*~~[verification]~~ *to the state board or its agency* of the existence of a venue-specific emergency action plan *that the school has reviewed and rehearsed by simulation as required by subsection (5)(c) of this section*~~[to the state board or its agency].~~

(7)~~[(5)]~~ Each school shall maintain complete and accurate records of its compliance with this section and shall make the records available for review by the state board or its agency upon request.

➔Section 6. The General Assembly hereby enacts this legislation in memory of Cameron Baston, Matthew Mangine, Star Ifeacho, and all other Kentucky students whose lives may have been saved by access to a portable automated external defibrillator.

➔Section 7. In the event the Legislative Research Commission dissolves the Interim Joint Committee on Health, Welfare, and Family Services and establishes another interim joint committee with jurisdiction over health services, the reviser of statutes shall change the name of the Interim Joint Committee on Health, Welfare, and Family Services in Section 2 of this Act to that interim joint committee.

Signed by Governor March 31, 2023.

CHAPTER 166

(HB 353)

AN ACT relating to crimes and punishments.

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

➔Section 1. KRS 218A.500 is amended to read as follows:

As used in this section and KRS 218A.510:

- (1) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes but is not limited to:
 - (a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
 - (b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;
 - (c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;
 - (d) *Except as provided in subsection (7) of this section*, testing equipment used, intended for use, or designed for use in ~~[identifying, or in]~~ analyzing the strength, effectiveness, or purity of controlled substances;
 - (e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

- (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
 - (g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;
 - (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;
 - (i) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
 - (j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
 - (k) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body; and
 - (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips which mean objects used to hold burning material, such as marijuana cigarettes, that have become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers.
- (2) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.
- (3) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.
- (4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
- (5) (a) This section shall not prohibit a local health department from operating a substance abuse treatment outreach program which allows participants to exchange hypodermic needles and syringes.
- (b) To operate a substance abuse treatment outreach program under this subsection, the local health department shall have the consent, which may be revoked at any time, of the local board of health and:
- 1. The legislative body of the first or home rule class city in which the program would operate if located in such a city; and
 - 2. The legislative body of the county, urban-county government, or consolidated local government in which the program would operate.
- (c) Items exchanged at the program shall not be deemed drug paraphernalia under this section while located at the program.
- (6) (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace officer may inquire as to the presence of needles or other sharp objects in the areas to be searched that may cut or puncture the officer and offer to not charge a person with possession of drug paraphernalia if the person declares to the officer the presence of the needle or other sharp object. If, in response to the offer, the person admits to the presence of the needle or other sharp object prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object or for possession of a controlled substance for residual or trace drug amounts present on the needle or sharp object.

- (b) The exemption under this subsection shall not apply to any other drug paraphernalia that may be present and found during the search or to controlled substances present in other than residual or trace amounts.
- (7) (a) This section shall not prohibit the retail sale of hypodermic syringes and needles without a prescription in pharmacies.
- (b) Hypodermic syringe and needle inventory of a pharmacy shall not be deemed drug paraphernalia under this section.
- (c) **1. Except as provided in subparagraph 2. of this paragraph, narcotic drug testing products utilized in determining whether a controlled substance contains a synthetic opioid or its analogues shall not be deemed drug paraphernalia under this section.**
- 2. A narcotic drug testing product that is utilized in conjunction with the importation, manufacture, or selling of fentanyl or a fentanyl analogue in violation of this chapter shall be deemed drug paraphernalia under this section.**
- (d) **Notwithstanding any other statute to the contrary, possession of a narcotic drug testing product used in accordance with paragraph (c)1. of this subsection that contains residual or trace amounts of a synthetic opioid or an analogue thereof shall not be prosecuted as possession of a controlled substance under any provision of this chapter.**
- (8) Any person who violates any provision of this section shall be guilty of a Class A misdemeanor.

➔Section 2. KRS 533.282 is amended to read as follows:

- (1) In establishing a specific behavioral health disorder treatment plan, the program provider formulating the plan shall consider the following:
 - (a) The existence of programs and resources within the community;
 - (b) Available treatment providers;
 - (c) Available recovery housing;
 - (d) Accessible public and private agencies;
 - (e) The benefit of keeping the participant in his or her community or relocation for purposes of treatment, housing, and other supportive services;
 - (f) The safety of the victim of the offense if there is an identified victim; and
 - (g) The specific and personalized needs of the participant, including the choice of the participant.
- (2) A program shall be designed to provide the participant with the skills, training, and resources needed to maintain recovery and prevent the person from engaging in criminal activity arising from a behavioral health disorder upon release from the program.
- (3) A behavioral health treatment program under KRS 533.270 to 533.284 shall be evidence-based, and may be a behavioral treatment plan, a medically assisted treatment plan, or both, with recovery services or a Substance Abuse and Mental Health Services Administration evidence-based recovery housing program. The program shall provide at a minimum access, as needed, to:
 - (a) Inpatient detoxification and treatment that may include a faith-based residential treatment program;
 - (b) Outpatient treatment;
 - (c) Drug testing;
 - (d) Addiction counseling;
 - (e) Cognitive and behavioral therapies;
 - (f) Medication-assisted treatment, including:
 - 1. At least one (1) federal Food and Drug Administration-approved agonist medication for the treatment of opioid or alcohol dependence;
 - 2. Partial agonist medication;
 - 3. Antagonist medication; and

4. Any other approved medication for the mitigation of opioid withdrawal symptoms;
 - (g) Educational services;
 - (h) Vocational services;
 - (i) Housing assistance;
 - (j) Peer support services; and
 - (k) Community support services that may include faith-based services.
- (4) ***A program provider may provide services directly to the participant or in conjunction with other treatment providers to ensure all required services under the treatment plan are accessible and received.***
- (5) Except for recovery housing providers, all treatment providers shall:
 - (a) Meet the licensure requirements and standards established by the Cabinet for Health and Family Services under KRS Chapter 222 ***or meet alternative and relevant licensure or certification criteria recognized by the cabinet or a federal agency;***
 - (b) Qualify as a Medicaid-approved provider; and
 - (c) Be accredited by at least one (1) of the following:
 1. American Society of Addiction Medicine;
 2. Joint Commission on the Accreditation of Healthcare Organizations;~~[-or]~~
 3. Commission on Accreditation of Rehabilitation Facilities;
 4. ***The Council on Accreditation; or***
 5. ***Other accreditations or standards recognized by the cabinet.***
- ~~(6)~~~~(5)~~ All recovery housing service providers shall:
 - (a) Be certified using the National Alliance for Recovery Residences standards ***or meet Oxford House standards;***
 - (b) Provide evidence-based services;
 - (c) Provide a record of outcomes;
 - (d) Provide peer support services; and
 - (e) Address the social determinants of health.
- ~~(7)~~~~(6)~~
 - (a) The Department for Medicaid Services, in conjunction with the program provider, shall assist any program participant who qualifies for Medicaid services to obtain or access Medicaid services for his or her behavioral health disorder treatment or recovery program.
 - (b) The Department for Medicaid Services and its contractors shall provide an individual participating in the behavioral health conditional dismissal program with the substance use disorder benefit as provided under KRS 205.6311.
 - (c) A Medicaid managed care organization shall treat any referral for treatment under KRS 533.270 to 533.284 as an "expedited authorization request" as provided under KRS 205.534(2)(a)2.b.
- ~~(8)~~~~(7)~~ Recovery housing services provided under this pilot program shall:
 - (a) Be paid utilizing a value-based payment system developed and established by the medical managed care organizations in conjunction with the Department for Medicaid Services and recovery housing providers. The value-based payment system shall be established no later than January 1, 2023, and shall include the following for recovery housing programs:
 1. The development of a qualified recovery housing provider network; and
 2. Establishment and implementation of a value-based payment system that shall include the regular collection of outcomes data within existing Medicaid reimbursement regulations; and
 - (b) Be limited to two hundred (200) individuals unless additional funding designated for recovery housing is available through the Cabinet for Health and Family Services.

➔Section 3. KRS 533.288 is amended to read as follows:

- (1) The Behavioral Health Conditional Dismissal Program Implementation Council is created for the purpose of assisting with the implementation of the behavioral health conditional dismissal pilot program created under KRS 533.272.
- (2) The membership of the council shall include the following:
 - (a) The executive director of the Office of Drug Control Policy, or his or her designee, who shall serve as chair of the council;
 - (b) The director of the Administrative Office of the Courts, or his or her designee;
 - (c) The commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities, or his or her designee;
 - (d) The commissioner of the Kentucky Department for Medicaid Services, or his or her designee;
 - (e) The public advocate, or his or her designee;
 - (f) A member of the Kentucky Commonwealth's Attorneys' Association, elected by its membership;
 - (g) A member of the Kentucky County Attorneys Association;
 - (h) One (1) Circuit Judge, elected by the Circuit Judges Association of Kentucky;
 - (i) One (1) District Judge, elected by the District Judges Association of Kentucky;
 - (j) *The executive director of the Office of Adult Education, or his or her designee;*
 - (k) The executive director of the Kentucky Jailers Association, or his or her designee; and
 - ~~(l)~~ Two (2) individuals selected by the Kentucky Association of Regional Programs, one (1) of whom shall be in recovery from a substance use disorder and one (1) of whom is being treated or has been treated for a mental health disorder as defined in KRS 533.270.
- (3) The council shall meet at least quarterly. Meetings shall be held at the call of the chair, or upon the written request of two (2) members to the chair.
- (4) The council shall:
 - (a) Oversee the implementation of the behavioral health conditional dismissal program pilot project; and
 - (b) Review the data collected by the Administrative Office of the Courts and report to the Interim Joint Committee on Judiciary and the Governor by October 1 of each year of the pilot project regarding:
 1. Recommendations for any additional performance measures needed to promote the success of the program;
 2. Whether any action is necessary, including funding or legislation;
 3. Recommendations for resolving any matters that reduce the effectiveness of the program; and
 4. Any additional information the council deems appropriate.
- (5) Members shall not receive any additional compensation for their service on the council but shall be reimbursed for all necessary expenses.
- (6) The council shall be attached to the Justice and Public Safety Cabinet for administrative purposes.
- (7) The council shall terminate December 31, 2027, unless extended by the General Assembly.

➔Section 4. The Cabinet for Health and Family Services, in coordination with the Justice and Public Safety Cabinet, shall conduct or have conducted a Fentanyl Education and Awareness campaign. The campaign shall begin no later than 90 days after the effective date of this Act.

Signed by Governor March 31, 2023.

CHAPTER 167**(HB 401)**

AN ACT relating to reorganization.

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

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

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

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

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- (4) Department of Law.
 - (a) Attorney General.
- (5) Department of the Treasury.
 - (a) Treasurer.
- (6) Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) 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 *Electronic Services*~~[Information Technology]~~.
 - c. ***Division of Records Management.***
- (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) 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) 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.
- 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.
- (4) 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) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - 3. Department for Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Finance and Personnel Division.
 - c. IT and Resource Management Division.
 - d. Compliance Division.
 - e. Incentive Administration Division.
 - f. Bluegrass State Skills Corporation.
 - 4. Office of Marketing and Public Affairs.
 - a. Communications Division.
 - b. Graphics Design Division.
 - 5. Office of Workforce, Community Development, and Research.
 - 6. Office of Entrepreneurship and Small Business Innovation.
 - a. Commission on Small Business Innovation and Advocacy.
- (6) 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.
 10. Office of Data Analytics.
- (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.
- (7) 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.
 - (x) Office of Fleet Management.

- (8) 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 Purchasing.
 - 5. Division of Facilities.
 - 6. Division of Park Operations.
 - 7. Division of Sales, Marketing, and Customer Service.
 - 8. Division of Engagement.
 - 9. Division of Food Services.
 - 10. Division of Rangers.
 - (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) 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.

ACTS OF THE GENERAL ASSEMBLY

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.
 - f. Employment First Council.
 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 2. KRS 15A.020 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall have the following departments:
 - (a) Department of Corrections;
 - (b) Department of Criminal Justice Training, which shall have the following divisions:
 1. Training Operations Division; and
 2. Administrative Division;
 - (c) Department of Juvenile Justice, which shall have the following offices:
 1. Office of Program Operations, which shall have the following divisions:
 - a. Division of Western Region;
 - b. Division of Eastern Region; and
 - c. Division of Placement Services;
 2. Office of Support Services, which shall have the following divisions:
 - a. Division of Administrative Services;
 - b. Division of Program Services; and
 - c. Division of Medical Services; and
 3. Office of Community and Mental Health Services, which shall have the following divisions:
 - a. Division of Professional Development; and
 - b. Division of Community and Mental Health Services;
 - (d) Department of Kentucky State Police, which shall have the following offices and divisions:
 1. Office of Administrative Services, which shall be headed by an executive director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the commissioner;
 - a. Division of Operational Support, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Administrative Services; and
 - b. Division of Management Services, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Administrative Services;
 2. Office of Operations, which shall be headed by an executive director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the commissioner;
 - a. Division of West Troops, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations;
 - b. Division of East Troops, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations;
 - c. Division of Special Enforcement, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations; and
 - d. Division of Commercial Vehicle Enforcement, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Operations; and

3. Office of Technical Services, which shall be headed by an executive director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the commissioner;
 - a. Division of Forensic Services, which shall be headed by a director who shall have a minimum of a bachelor's degree in a natural science and at least seven (7) years of experience in an accredited forensic laboratory, who shall be appointed by the commissioner of the Department of Kentucky State Police, and who shall report to the executive director of the Office of Technical Services;~~and~~
 - b. Division of *Electronic Services*~~Information Technology~~, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Technical Services; and
 - c. *Division of Records Management, which shall be headed by a director who shall be appointed by the commissioner of the Department of Kentucky State Police and who shall report to the executive director of the Office of Technical Services; and*
- (e) Department of Public Advocacy, which shall have the following divisions:
 1. Protection and Advocacy Division;
 2. Division of Law Operations;
 3. Division of Trial Services;
 4. Division of Post-Trial Services; and
 5. Division of Conflict Services.
- (2) Each department, except for the Department of Public Advocacy, shall be headed by a commissioner who shall be appointed by the secretary of the Justice and Public Safety Cabinet with the approval of the Governor as required by KRS 12.040. Each commissioner shall be directly responsible to the secretary and shall have such functions, powers, and duties as provided by law and as the secretary may prescribe. The Department of Public Advocacy shall be headed by the public advocate, appointed as required by KRS 31.020, who shall be directly responsible to the Public Advocacy Commission. The Department of Public Advocacy is an independent state agency which shall be attached to the Justice and Public Safety Cabinet for administrative purposes only. The Justice and Public Safety Cabinet shall not have control over the Department of Public Advocacy's information technology equipment and use unless granted access by court order.
- (3) The Justice and Public Safety Cabinet shall have the following offices and divisions:
 - (a) Office of the Secretary, which shall be headed by a deputy secretary appointed pursuant to KRS 12.050 and responsible for the direct administrative support for the secretary and other duties as assigned by the secretary, and which, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - (b) Office of Human Resource Management, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible to and report to the secretary and be responsible for all matters relating to human resources, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 1. Division of Human Resource Administration, which shall be headed by a director appointed pursuant to KRS 12.050 who shall report to the executive director of the Office of Human Resource Management; and
 2. Division of Employee Management, which shall be headed by a director appointed pursuant to KRS 12.050 who shall report to the executive director of the Office of Human Resource Management;
 - (c) Office of Legal Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 and 12.210, that:
 1. Shall provide legal representation and services for the cabinet; and
 2. May investigate all complaints regarding the facilities, staff, treatment of juveniles, and other matters relating to the operation of the Justice and Public Safety Cabinet. If it appears that there

is a violation of statutes, administrative regulations, policies, court decisions, the rights of juveniles who are subject to the orders of the department, or any other matter relating to the Justice and Public Safety Cabinet, the office shall report to the secretary of the Justice and Public Safety Cabinet who shall, if required, refer the matter to a law enforcement agency, Commonwealth's attorney, county attorney, the Attorney General, or federal agencies, as appropriate. The office may be used to investigate matters in which there is a suspicion of violation of written policy, administrative regulation, or statutory law within the Department of Public Advocacy only when the investigation will have no prejudicial impact upon a person who has an existing attorney-client relationship with the Department of Public Advocacy. Notwithstanding the provisions of this subparagraph, investigation and discipline of KRS Chapter 16 personnel shall continue to be conducted by the Department of Kentucky State Police pursuant to KRS Chapter 16. The office shall conduct no other investigations under the authority granted in this subparagraph. The secretary may, by administrative order, assign the investigative functions in this subparagraph to a branch within the office.

The executive director shall be directly responsible to and report to the secretary and, with the approval of the secretary, may employ such attorneys appointed pursuant to KRS 12.210 and other staff as necessary to perform the duties, functions, and responsibilities of the office;

- (d) Office of Legislative and Intergovernmental Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the provision of support to the Criminal Justice Council, legislative liaison services, and functions and duties vested in the Criminal Justice Council as described in KRS 15A.030. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
- (e) Office of Communications, which shall be headed by an executive director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall be responsible to report to the secretary and be responsible for all matters relating to communications, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - 1. Information and Technology Services Division, which shall be headed by a director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall report to the executive director of the Office of Communications;
- (f) Office of Financial Management Services, which shall be headed by an executive director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall be responsible to report to the secretary and be responsible for all matters relating to fiscal functions, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - 1. Division of Financial Management, which shall be headed by a director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall report to the executive director of the Office of Financial Management Services;
- (g) Grants Management Division, which shall be headed by a director appointed by the secretary of the Justice and Public Safety Cabinet pursuant to KRS 12.050 who shall be responsible to report to the secretary and be responsible for all matters relating to state and federal grants management, and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
- (h) Office of the Kentucky State Medical Examiner, which shall be headed by a chief medical examiner appointed pursuant to KRS 72.240 who shall be responsible for all matters relating to forensic pathology and forensic toxicology and other duties as assigned by the secretary. The executive director appointed pursuant to KRS 12.050 shall be responsible for all matters related to the administrative support of the Office of the State Medical Examiner. The executive director shall report directly to the secretary and with the approval of the secretary may employ such administrative support staff as necessary to perform the administrative duties, functions, and responsibilities of the office. The chief medical examiner shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the forensic duties, functions, and responsibilities of the office; and

- (i) Office of Drug Control Policy, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the research, coordination, and execution of drug control policy and for the management of state and federal grants, including but not limited to the prevention and treatment related to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall review, approve, and coordinate all current projects of any substance abuse program which is conducted by or receives funding through agencies of the executive branch. This oversight shall extend to all substance abuse programs which are principally related to the prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the Commonwealth. The Office of Drug Control Policy shall promulgate administrative regulations consistent with enforcing this oversight authority. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office.

Signed by Governor April 4, 2023.

CHAPTER 168

(HB 207)

AN ACT relating to internal police communications.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Wellness program" means a program created by a law enforcement agency to support the physical and mental health of law enforcement personnel; and*
- (b) *"Early intervention system" means a methodology that identifies and addresses potentially problematic behaviors.*

(2) *A law enforcement agency may create its own wellness program in order to support the mental health and wellbeing of its employees. These programs may include but are not limited to an early intervention system, access to mental health counseling, crisis counseling, support systems, training, equipment, and technology necessary for an employee to perform his or her job.*

(3) *Any law enforcement agency that creates its own wellness program shall establish written policies and procedures for the program.*

(4) (a) *Except as provided in paragraph (b) of this subsection, all proceedings, records, opinions, conclusions, and recommendations arising from any aspect of a wellness program shall be confidential and privileged from disclosure, regardless of who possesses them. Under this confidentiality and privilege, the wellness program records or communications shall be subject to the same protections as any counselor-client privilege provided under the Kentucky Rules of Evidence in any criminal or civil proceeding. The participating officer or telecommunicator shall be the holder of the privilege.*

(b) *This privilege shall not apply:*

1. *To the disclosure of relevant information in response to a claim made by the holder of the privilege against a law enforcement agency related to programs or services provided by a wellness program under this section; or*

2. *When an officer's or telecommunicator's communication contains:*

a. *An explicit threat of suicide in which the participant shares an intent to die by suicide, a plan to carry out a suicide attempt by the participant, or a disclosure of the means by which the participant intends to carry out a suicide attempt. This paragraph shall not apply to any wellness program communication where the officer or telecommunicator solely shares that the participant is experiencing suicidal thoughts;*

- b. An explicit threat by a participant of imminent and serious physical injury and bodily harm or death to a clearly identified or reasonably identifiable victim;*
 - c. Information related to the abuse or neglect of a child or an older adult or vulnerable individual that is required by law to be reported;*
 - d. An admission of criminal conduct; or*
 - e. Other information which is required by law to be disclosed.*
- (c) Nothing in this subsection shall be construed to restrict or limit the right to discover or use in any civil action any evidence, document, or record that is subject to discovery independently of the proceedings of the wellness program.*
- (d) A law enforcement agency may use anonymous data for research, statistical analysis, and educational purposes.*

➔Section 2. KRS 61.878 is amended to read as follows:

- (1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:
- (a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;
 - (b) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;
 - (c)
 1. Records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records;
 2. Records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained:
 - a. In conjunction with an application for or the administration of a loan or grant;
 - b. In conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Chapter 154;
 - c. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or
 - d. For the grant or review of a license to do business.
 3. The exemptions provided for in subparagraphs 1. and 2. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;
 - (d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (c) of this subsection;
 - (e) Public records which are developed by an agency in conjunction with the regulation or supervision of financial institutions, including but not limited to banks, savings and loan associations, and credit unions, which disclose the agency's internal examining or audit criteria and related analytical methods;
 - (f) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision;

- (g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the exam is given or if it is to be given again;
- (h) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action; however, records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the provisions of KRS 61.870 to 61.884 and shall remain exempted after enforcement action, including litigation, is completed or a decision is made to take no action. The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;
- (i) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;
- (j) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;
- (k) All public records or information the disclosure of which is prohibited by federal law or regulation or state law;
- (l) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly, including any information acquired by the Department of Revenue in tax administration that is prohibited from divulgence or disclosure under KRS 131.190;
- (m)
 1. Public records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to:
 - a. Criticality lists resulting from consequence assessments;
 - b. Vulnerability assessments;
 - c. Antiterrorism protective measures and plans;
 - d. Counterterrorism measures and plans;
 - e. Security and response needs assessments;
 - f. Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including public utility critical systems. These critical systems shall include but not be limited to information technology, communication, electrical, fire suppression, ventilation, water, wastewater, sewage, and gas systems;
 - g. The following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency; and
 - h. Records when their disclosure will expose a vulnerability referred to in this subparagraph and that describe the exact physical location of hazardous chemical, radiological, or biological materials.
 2. As used in this paragraph, "terrorist act" means a criminal act intended to:
 - a. Intimidate or coerce a public agency or all or part of the civilian population;
 - b. Disrupt a system identified in subparagraph 1.f. of this paragraph; or
 - c. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.

3. On the same day that a public agency denies a request to inspect a public record for a reason identified in this paragraph, that public agency shall forward a copy of the written denial of the request, referred to in KRS 61.880(1), to the executive director of the Kentucky Office of Homeland Security and the Attorney General.
 4. Nothing in this paragraph shall affect the obligations of a public agency with respect to disclosure and availability of public records under state environmental, health, and safety programs.
 5. The exemption established in this paragraph shall not apply when a member of the Kentucky General Assembly seeks to inspect a public record identified in this paragraph under the Open Records Law;
- (n) Public or private records, including books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software, or other documentation regardless of physical form or characteristics, having historic, literary, artistic, or commemorative value accepted by the archivist of a public university, museum, or government depository from a donor or depositor other than a public agency. This exemption shall apply to the extent that nondisclosure is requested in writing by the donor or depositor of such records, but shall not apply to records the disclosure or publication of which is mandated by another statute or by federal law;
- (o) Records of a procurement process under KRS Chapter 45A or 56. This exemption shall not apply after:
1. A contract is awarded; or
 2. The procurement process is canceled without award of a contract and there is a determination that the contract will not be resolicited;
- (p) Client and case files maintained by the Department of Public Advocacy or any person or entity contracting with the Department of Public Advocacy for the provision of legal representation under KRS Chapter 31;
- (q) Except as provided in KRS 61.168, photographs or videos that depict the death, killing, rape, or sexual assault of a person. However, such photographs or videos shall be made available by the public agency to the requesting party for viewing on the premises of the public agency, or a mutually agreed upon location, at the request of:
1.
 - a. Any victim depicted in the photographs or videos, his or her immediate family, or legal representative;
 - b. Any involved insurance company or its representative; or
 - c. The legal representative of any involved party;
 2. Any state agency or political subdivision investigating official misconduct; or
 3. A legal representative for a person under investigation for, charged with, pled guilty to, or found guilty of a crime related to the underlying incident. The person under investigation for, charged with, pled guilty to, or found guilty of a crime related to the underlying incident or their immediate family shall not be permitted to have access to the photographs or videos;
- (r) ***Records confidentially maintained by a law enforcement agency in accordance with a wellness program, including an early intervention system, as described in Section 1 of this Act;*** and
- (s)~~(+)~~ Communications of a purely personal nature unrelated to any governmental function.
- (2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.
- (3) No exemption in this section shall be construed to deny, abridge, or impede the right of a public agency employee, including university employees, an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him ***or her***. The records shall include~~(+)~~ but not be limited to~~(+)~~ work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, lay-offs, disciplinary actions, examination scores, and preliminary and other supporting documentation. A public agency employee, including university employees, applicant, or eligible shall not have the right to inspect or to copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency.

- (4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.
- (5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.
- (6) When material is made available pursuant to a request under subsection (1)(q) of this section, the public agency shall not be required to make a copy of the recording except as provided in KRS 61.169, and the requesting parties shall not be limited in the number of times they may view the material.

Signed by Governor April 4, 2023.

CHAPTER 169

(HB 115)

AN ACT relating to service animals.

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

➔Section 1. KRS 525.010 is amended to read as follows:

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

- (1) "Desecrate" means defacing, damaging, polluting, or otherwise physically mistreating in a way that the actor knows will outrage the sensibilities of persons likely to observe or discover his *or her* action.
- (2) "Public" means affecting or likely to affect a substantial group of persons.
- (3) "Public place" means a place to which the public or a substantial group of persons has access and includes but is not limited to highways, transportation facilities, schools, places of amusements, parks, places of business, playgrounds, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. An act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place.
- (4) "Transportation facility" means any conveyance, premises, or place used for or in connection with public passenger transportation by air, railroad, motor vehicle, or any other method. It includes aircraft, watercraft, railroad cars, buses, and air, boat, railroad, and bus terminals and stations and all appurtenances thereto.
- (5) "Riot" means a public disturbance involving an assemblage of five (5) or more persons which by tumultuous and violent conduct creates grave danger of damage or injury to property or persons or substantially obstructs law enforcement or other government function.
- (6) "Service animal" includes a:
 - (a) "Bomb detection dog," which means a dog that is trained to locate bombs or explosives by scent;
 - (b) ***"Electronic detection dog," which means a dog that is trained to locate electronic devices by scent;***
 - (c) "Narcotic detection dog," which means a dog that is trained to locate narcotics by scent;
 - (d)~~(e)~~ "Patrol dog," which means a dog that is trained to protect a peace officer and to apprehend a person;
 - (e)~~(d)~~ "Tracking dog," which means a dog that is trained to track and find a missing person, escaped inmate, or fleeing felon;
 - (f)~~(e)~~ "Search and rescue dog," which means a dog that is trained to locate lost or missing persons, victims of natural or man-made disasters, and human bodies;
 - (g)~~(f)~~ "Accelerant detection dog," which means a dog that is trained for accelerant detection, commonly referred to as arson canines;
 - (h)~~(g)~~ "Cadaver dog," which means a dog that is trained to find human remains;

- (i)~~(h)~~ "Assistance dog," which means any dog that is trained to meet the requirements of KRS 258.500;
- (j)~~(i)~~ Any dog that is trained in more than one (1) of the disciplines specified in paragraphs (a) to (i)~~(h)~~ of this subsection; ~~(e)~~
- (k) ***"Police dog," which means any dog that is owned, or the service of which is employed, by a law enforcement agency as defined in KRS 61.298 for the principal purpose of aiding in detection of criminal activity, enforcement of laws, and apprehension of offenders; or***
- (l)~~(j)~~ "Police horse," which means any horse that is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in detection of criminal activity, enforcement of laws, and apprehension of offenders.

➔Section 2. KRS 525.200 is amended to read as follows:

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

Signed by Governor April 4, 2023.

CHAPTER 170

(HB 373)

AN ACT relating to peace officer certification.

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

➔Section 1. KRS 15.310 is amended to read as follows:

As used in KRS 15.310 to 15.510, 15.990, and 15.992, unless the context otherwise requires:

- (1) "Basic training course" means the peace officer or court security officer basic training course provided by the Department of Criminal Justice Training or a course approved and recognized by the Kentucky Law Enforcement Council;
- (2) "Certified court security officer" means a court security officer who is certified under KRS 15.380 to 15.404;
- (3) "Certified peace officer" means a peace officer who is certified under KRS 15.380 to 15.404;
- (4) "Certification" means the act by the council of issuing certification to a peace officer or court security officer who successfully completes the training requirements pursuant to KRS 15.404 and the requirements set forth within this chapter;
- (5) "Council" means the Kentucky Law Enforcement Council established by KRS 15.310 to 15.510, 15.990, and 15.992;
- (6) "Court security officer" means a person required to be certified under KRS 15.380(1)(c) and who is charged with the duties set out in KRS 70.280;
- (7) "Department" means the Department of Criminal Justice Training of the Justice and Public Safety Cabinet;
- (8) "Fire investigator" means a professional firefighter, as used in KRS 95A.210, who has been appointed to ***investigate offenses under KRS Chapter 513***~~be a fire investigator~~ and to exercise peace officer powers under

KRS 95A.100, or a deputy fire marshal who has been appointed to be a fire investigator and to exercise peace officer powers under KRS 227.220;

- (9) "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus police officers, law enforcement support personnel, public airport authority security officers, **and** other public and federal peace officers responsible for law enforcement~~], and special local peace officers licensed pursuant to KRS 61.360~~;
- (10) "Peace officer" means a person defined in KRS 446.010, or a fire investigator appointed to exercise peace officer powers under KRS 95A.100 or 227.220;
- (11) "Secretary" means the secretary of the Justice and Public Safety Cabinet; and
- (12) "Validated job task analysis" means the minimum entry level qualifications and training requirements for peace officers in the Commonwealth based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

➔Section 2. KRS 15.380 is amended to read as follows:

- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified **by the council if all minimum standards set forth in this section to KRS 15.404 have been met:**
 - (a) Department of Kentucky State Police officers, but for the commissioner of the Department of Kentucky State Police;
 - (b) City, county, and urban-county police officers;
 - (c) ~~{Court security officers and }~~Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
 - (d) State or public university police officers appointed pursuant to KRS 164.950;
 - (e) School resource officers as defined in KRS 158.441 and employed or appointed under KRS 158.4414;
 - (f) Airport safety and security officers appointed under KRS 183.880;
 - (g) Department of Alcoholic Beverage Control investigators appointed under KRS 241.090;
 - (h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040; **and**
 - (i) Fire investigators appointed or employed under KRS 95A.100 or 227.220~~]; and~~
 - ~~(j) County detectives appointed in accordance with KRS 69.360 after July 1, 2019.~~
- (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel Cabinet for job specifications.
- (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.
- (4) The following officers may, upon request of the employing agency, be certified by the council **if all minimum standards set forth in this section to KRS 15.404 have been met:**
 - (a) Deputy coroners;
 - (b) Deputy constables;
 - (c) Deputy jailers;
 - (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
 - (e) Officers appointed under KRS 61.360;
 - (f) Officers appointed under KRS 61.902, except those who are school resource officers as defined in KRS 158.441 and who shall be certified under subsection (1)(e) of this section;
 - (g) Private security officers;

- (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and
 - (i) Investigators employed by the Department of Charitable Gaming in accordance with KRS 238.510; and
 - (j) Commonwealth detectives employed under KRS 69.110 and county detectives employed under KRS 69.360.
- (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:
- (a) Sheriffs;
 - (b) Coroners;
 - (c) Constables;
 - (d) Jailers;
 - (e) Kentucky Horse Racing Commission security officers employed under KRS 230.240; and
 - (f) Commissioner of the State Police.
- (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.
- (7) Local alcoholic beverage control investigators appointed under KRS Chapter 241 on or after April 1, 2019, shall be certified by the council if all minimum standards set forth in KRS 15.380 to 15.404 have been met. Local alcoholic beverage control investigators appointed under KRS Chapter 241 before April 1, 2019, **may be certified by the council if all minimum standards set forth in this section to KRS 15.404 have been met** ~~shall be exempt from this requirement~~.

➔Section 3. KRS 15.382 is amended to read as follows:

A person certified after December 1, 1998, under KRS 15.380 to 15.404 or qualified under the requirements set forth in KRS 15.440(1)(d)6. shall, at the time of becoming certified, meet the following minimum qualifications:

- (1) Be a citizen of the United States;
- (2) Be at least twenty-one (21) years of age;
- (3)
 - (a) Be a high school graduate, regardless of whether the school is accredited or certified by a governing body, provided that the education received met the attendance and curriculum standards of Kentucky law at the time of graduation, as determined by the Kentucky Department of Education; or
 - (b) Possess a High School Equivalency Diploma;
- (4) Possess a valid license to operate a motor vehicle;
- (5) Be fingerprinted for a criminal background check;
- (6) Not have been convicted of any felony; a misdemeanor under KRS 510.120, 510.130, or 510.140; a second or subsequent offense under KRS 510.148; ~~or~~ a criminal attempt, conspiracy, facilitation, or solicitation to commit any degree of rape, sodomy, sexual abuse, or sexual misconduct; **or have had any offense listed under this subsection expunged**;
- (7) Not be prohibited by federal or state law from possessing a firearm;
- (8) Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;
- (9) Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions, if having served in any branch of the Armed Forces of the United States;
- (10) Have passed a medical examination as defined by the council by administrative regulation and provided by a licensed physician, physician assistant, or advanced practice registered nurse to determine if he can perform peace officer duties as determined by a validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall pass the medical examination, appropriate to the agency's job task analysis, of the employing agency. All agencies shall certify passing medical examination results to the council, which shall accept them as complying with KRS 15.310 to 15.510;
- (11) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for the use of

an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council, which shall accept them as complying with KRS 15.310 to 15.510;

- (12) Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a peace officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS 15.310 to 15.510;
- (13) Have been interviewed by the employing agency;
- (14) Not have had certification as a peace officer permanently revoked in another state;
- (15) Have taken a psychological suitability screening administered or approved by the council by administrative regulation to determine the person's suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take that agency's psychological examination, appropriate to the agency's job task analysis. All agencies shall certify psychological examination results to the council, which shall accept them as complying with KRS 15.310 to 15.510;
- (16) Have passed a physical agility test administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take the physical agility examination of the employing agency. All agencies shall certify physical agility examination results to the council, which shall accept them as demonstrating compliance with KRS 15.310 to 15.510; and
- (17) Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for employment as a peace officer to the council, which shall accept them as complying with KRS 15.310 to 15.510.

➔Section 4. KRS 15.386 is amended to read as follows:

The following certification categories shall exist:

- (1) "Precertification status" means that the officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in KRS 15.382, but has not successfully completed a basic training course, except those peace officers covered by KRS 15.400. Upon the council's verification that the minimum qualifications have been met, the officer shall have full peace officer powers as authorized under the statute under which he or she was appointed or employed. If an officer fails to successfully complete a basic training course within one (1) year of employment, his or her enforcement powers shall automatically terminate, unless that officer is actively enrolled and participating in a basic training course or, after having begun a basic training course, is on an approved extension of time due to injury or extenuating circumstances;
- (2) "Certification status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have full peace officer powers as authorized under the statute under which he or she was appointed or employed;
- (3) (a) "Inactive status" means that unless the certification is in revoked status:
 1. The person has been separated on or after December 1, 1998, from the agency by which he or she was employed or appointed and has no peace officer powers; or
 2. The person is on military active duty for a period exceeding three hundred sixty-five (365) days.
 (b) The person may remain on inactive status. A person who is on inactive status and who returns to a peace officer position shall have certification status restored if he or she meets the requirements of KRS 15.400(1) or (2) or has successfully completed a basic training course approved and recognized by the council, has not committed an act for which his or her certified status may be revoked pursuant to KRS 15.391, and successfully completes in-service training as prescribed by the council, as follows:
 1. ***If a person has been on inactive status for less than one (1) year, and the person was not in training deficiency status at the time of separation, he or she shall have no additional training requirements;***

2. If the person has been on inactive status for a period of *at least one (1) year but* less than three (3) years, and the person was not in training deficiency status at the time of separation, he or she shall complete:
 - a. The twenty-four (24) hour legal update Penal Code course;
 - b. The sixteen (16) hour legal update constitutional procedure course; and
 - c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status; or
 - 3.~~2.~~ If the person has been on inactive status for a period of three (3) years or more, or the person was in training deficiency status at the time of separation, he or she shall complete:
 - a. The twenty-four (24) hour legal update Penal Code course;
 - b. The sixteen (16) hour legal update constitutional procedure course;
 - c. The mandatory training course approved by the Kentucky Law Enforcement Council, pursuant to KRS 15.334, for the year in which he or she returns to certification status; and
 - d. One (1) of the following forty (40) hour courses which is most appropriate for the officer's duty assignment:
 - i. Basic officer skills;
 - ii. Orientation for new police chiefs; or
 - iii. Mandatory duties of the sheriff.
- (c) A person returning from inactive to active certification after June 26, 2007, under KRS 15.380 to 15.404, shall meet the following minimum qualifications:
1. Be a citizen of the United States;
 2. Possess a valid license to operate a motor vehicle;
 3. Be fingerprinted for a criminal background check;
 4. Not have been convicted of any felony; a misdemeanor under KRS 510.120, 510.130, or 510.140; a second or subsequent offense under KRS 510.148; or a criminal attempt, conspiracy, facilitation, or solicitation to commit any degree of rape, sodomy, sexual abuse, or sexual misconduct; *or have had any offense listed under this subparagraph expunged*;
 5. Not be prohibited by federal or state law from possessing a firearm;
 6. Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;
 7. Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions, if having served in any branch of the Armed Forces of the United States;
 8. Have been interviewed by the employing agency; and
 9. Not have had certification as a peace officer permanently revoked in another state;
- (4) "Training deficiency status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has failed to meet all in-service training requirements. The officer's enforcement powers shall automatically terminate, and he or she shall not exercise peace officer powers in the Commonwealth until he or she has corrected the in-service training deficiency;
- (5) "Revoked status" means that the officer has no enforcement powers and his or her certification has been revoked by the Kentucky Law Enforcement Council under KRS 15.391; and
- (6) "Denied status" means that a person does not meet the requirements to achieve precertification status or certification status.

The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified peace officer.

➔Section 5. KRS 15.391 is amended to read as follows:

- (1) As used in this section:
- (a) "Agency" means any law enforcement agency, or other unit of government listed in KRS 15.380, that employs a certified peace officer;
 - (b) "Final order" has the same meaning as in KRS 13B.010 *and shall be specific to whether the Kentucky Law Enforcement Council has met the requirements under this section to revoke an individual's peace officer certification*;
 - (c) "General employment policy" means a rule, regulation, policy, or procedure commonly applicable to the general workforce or civilian employees that is not unique to law enforcement activities or the exercise of peace officer authority, regardless of whether the rule, regulation, policy, or procedure exists or appears in a manual or handbook that is solely applicable to a law enforcement department or agency within the unit of government employing the officer;
 - (d) "Investigating agency" means an agency that investigates the use of force, *a criminal act, or an administrative violation* by peace officers, including but not limited to the employing agency;
 - (e) "Professional malfeasance" means engaging in an act in one's professional capacity as a peace officer that violates a federal, state, or local law or regulation, or any act that involves the following:
 - 1. The unjustified use of excessive or deadly force, as determined by an investigating agency;
 - 2. Any intentional action by a peace officer that interferes with or alters the fair administration of justice, including but not limited to tampering with evidence, giving of false testimony, or the intentional disclosure of confidential information in a manner that compromises the integrity of an official investigation; or
 - 3. Engaging in a sexual relationship with an individual the peace officer knows or should have known is a victim, witness, defendant, or informant in an ongoing criminal investigation in which the peace officer is directly involved;
 - (f) "Professional nonfeasance" means a failure to perform one's professional duty as a peace officer through omission or inaction that violates a federal, state, or local law or regulation, or any failure to act that involves the following:
 - 1. The failure to intervene when it is safe and practical to do so in any circumstance where it is clear and apparent to the peace officer that another peace officer is engaging in the use of unlawful and unjustified excessive or deadly force; or
 - 2. The intentional failure to disclose exculpatory or impeachment evidence that the peace officer knew or should have known to be materially favorable to an accused for the purpose of altering the fair administration of justice; and
 - (g) "Regulation" means:
 - 1. A federal or state administrative regulation adopted by a federal or state executive branch; and
 - 2. A local rule, regulation, policy, or procedure adopted by ordinance, order, or resolution, or other official action by an agency. However, "regulation" does not mean a general employment policy.
- (2) (a) The certification of a peace officer shall be deemed automatically revoked by the council by operation of the law for one (1) or more of the following:
- 1. Certification that was the result of an administrative error;
 - 2. Plea of guilty to, conviction of, or entering of an Alford plea to:
 - a. Any state or federal felony;
 - b. A misdemeanor under KRS 510.120, 510.130, or 510.140; a second or subsequent offense under KRS 510.148; or a criminal attempt, conspiracy, facilitation, or solicitation to commit any degree of rape, sodomy, sexual abuse, or sexual misconduct;
 - c. Any criminal offense committed in another state that would constitute a felony if committed in this state; or
 - d. Any criminal offense committed in another state that would, if committed in this state, constitute a misdemeanor under KRS 510.120, 510.130, or 510.140; a second or

subsequent offense under KRS 510.148; or a criminal attempt, conspiracy, facilitation, or solicitation to commit any degree of rape, sodomy, sexual abuse, or sexual misconduct;

3. Prohibition by federal or state law from possessing a firearm;
 4. Receipt of a dishonorable discharge or bad conduct discharge from any branch of the Armed Forces of the United States; or
 5. Willful falsification of information to obtain or maintain certification.
- (b)
1. A peace officer whose certification is revoked pursuant to paragraph (a) of this subsection may file an appeal at any time with the council. If an appeal is filed, the council shall conduct an administrative hearing pursuant to KRS Chapter 13B to consider the reinstatement of the peace officer's certification if the revocation was made in error or the condition requiring revocation was removed or remedied.
 2. The council may impose any reasonable condition upon the reinstatement of the certification it may deem warranted under the facts of the appeal.
 3. Notwithstanding any other provision of law, the council may subpoena or request a court to subpoena records that are necessary to provide evidence that will permit the council to evaluate ***the conditions of separation***~~[whether the cause for revocation has been remedied or removed]~~. Any confidential, ***active investigation***, or medical information received by the council under this subparagraph shall retain its confidential character.
 4. The reversal or any other type of invalidation of a conviction by an appellate court shall constitute the removal or remedy of a condition requiring revocation. However, an expungement of ~~***an***~~~~[a felony]~~ offense shall not be considered a removal or remedy that constitutes grounds for the reinstatement of the peace officer's certification under this paragraph.
 5. A final order issued by the council denying reinstatement of certification may be appealed pursuant to the provisions of KRS 13B.140.
- (3) (a) The certification of a peace officer may be revoked by the council for one (1) or more of the following:
1. Termination of the peace officer for failure to meet or maintain training requirements, unless the certification is in inactive status. As used in this subparagraph, "inactive status" has the same meaning as in KRS 15.386;
 2. Termination of the peace officer for professional malfeasance or professional nonfeasance by his or her agency;
 3. Termination of the peace officer following the plea of guilty to, conviction of, or entering of an Alford plea to any misdemeanor offense, in this state or out of it, that involves:
 - a. Dishonesty;
 - b. Fraud;
 - c. Deceit;
 - d. Misrepresentation;
 - e. Physical violence;
 - f. Sexual abuse; or
 - g. Crimes against a minor or a family or household member;
 4. Receipt of general discharge under other than honorable conditions from any branch of the Armed Forces of the United States that results in the termination of the peace officer from his or her agency; or
 5. Resignation or retirement of the peace officer while he or she is under criminal investigation or administrative investigation for professional malfeasance or professional nonfeasance that, in the judgment of the agency that employed the peace officer, would have likely resulted in the termination of that peace officer had the facts leading to the investigation been substantiated prior to his or her resignation or retirement.

- (b) The council shall review reports of events described in paragraph (a) of this subsection to determine whether the event warrants the initiation of proceedings by the council to revoke a peace officer's certification. If the council determines to initiate proceedings to revoke a peace officer's certification under this subsection, the administrative hearing shall be conducted pursuant to KRS Chapter 13B. A final order by the council revoking certification may be appealed pursuant to the provisions of KRS 13B.140.
 - (c) ***Notwithstanding any other provision of law, the council may subpoena or request a court to subpoena records that are necessary to provide evidence that will permit the council to evaluate the conditions of separation. Any confidential, active investigation, or medical information received by the council under this paragraph shall retain its confidential character.***
- (4) (a) An agency:
- 1. That has knowledge of a peace officer in its employment who meets any of the revocation conditions outlined in subsection (2) of this section shall report that condition to the council within fifteen (15) days of gaining knowledge;
 - 2. That terminated a peace officer for any of the revocation conditions outlined in subsection (3)(a)1., 2., 3., or 4. of this section shall report that condition to the council within fifteen (15) days of the termination; and
 - 3. That would have likely terminated a peace officer for the revocation condition outlined in subsection (3)(a)5. of this section shall report that condition to the council within fifteen (15) days of the peace officer's resignation or retirement. If an agency reports pursuant to this subparagraph, the agency shall notify the peace officer that a report has been made.
- (b) If an agency fails to make a report required by this subsection, the council may suspend the agency from participation in the Kentucky Law Enforcement Foundation Program fund. However, the time that an agency may be suspended by the council under this paragraph shall not exceed five (5) years.
- (5) The council may promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.

➔Section 6. KRS 15.3971 is amended to read as follows:

- (1) A person certified as a court security officer after June 26, 2007, under KRS 15.380 to 15.404 shall, at the time of becoming certified, meet the following minimum qualifications:
- (a) Be a citizen of the United States;
 - (b) Be at least twenty-one (21) years of age;
 - (c)
 - 1. Be a high school graduate, regardless of whether the school is accredited or certified by a governing body, provided that the education received met the attendance and curriculum standards of Kentucky law at the time of graduation, as determined by the Kentucky Department of Education; or
 - 2. Possess a high school diploma or a High School Equivalency Diploma;
 - (d) Possess a valid license to operate a motor vehicle;
 - (e) Be fingerprinted for a criminal background check;
 - (f) Not have been convicted of any felony; ***a misdemeanor under KRS 510.120, 510.130, or 510.140; a second or subsequent offense under KRS 510.148; a criminal attempt, conspiracy, facilitation, or solicitation to commit any degree of rape, sodomy, sexual abuse, or sexual misconduct; or have had any offense listed under this paragraph expunged;***
 - (g) Not be prohibited by federal or state law from possessing a firearm;
 - (h) Have received and read the Kentucky Law Enforcement Officers Code of Ethics, as established by the council;
 - (i) Have not received a dishonorable discharge, a bad conduct discharge, or general discharge under other than honorable conditions if he or she served in any branch of the Armed Forces of the United States;
 - (j) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for

the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council, which shall accept them as complying with KRS 15.380 to 15.404;

- (k) Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a court security officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS 15.380 to 15.404;
- (l) Have been interviewed by the employing agency;
- (m) Have taken a psychological suitability screening administered or approved by the council by administrative regulation to determine the person's suitability to perform court security officer duties; and
- (n) Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his or her suitability to perform court security officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for employment as a court security officer to the council, which shall accept them as complying with KRS 15.380 to 15.404.

- (2) A court security officer employed on or before June 26, 2007, shall comply with the requirements of subsection (1) of this section within six (6) months of June 26, 2007.
- (3) A peace officer who has previously attended law enforcement basic training and met the certification requirements of KRS 15.380 and 15.382 shall not be required to meet the requirements of this section to be appointed a court security officer, but shall meet the requirements of KRS 15.386(3).

➔Section 7. KRS 15.3973 is amended to read as follows:

The certification of a court security officer may, after a hearing held in conformity with KRS Chapter 13B, be revoked by the council for one (1) or more of the *bases for revocation described under Section 5 of this Act* following reasons:

- ~~(1) Failure to meet or maintain training requirements;~~
- ~~(2) Willful falsification of information to obtain or maintain certified status;~~
- ~~(3) Certification was the result of an administrative error;~~
- ~~(4) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;~~
- ~~(5) Prohibition by federal or state law from possessing a firearm; or~~
- ~~(6) Receipt of a dishonorable discharge, a bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States].~~

➔Section 8. KRS 15.3977 is amended to read as follows:

The following certification categories shall exist for certified court security officers:

- (1) "Precertification status" means that the ~~certified~~ court security officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in KRS 15.3971, but has not successfully completed the training course provided in KRS 15.3975(1). Upon the council's verification that the minimum qualifications have been met, the officer shall have court security officer powers as authorized under the statute under which he or she was appointed or employed. If an officer fails to successfully complete the training course provided in KRS 15.3975(1) within one (1) year of employment, his or her court security powers shall automatically terminate;
- (2) "Certification status" means that unless the certification is in revoked status or inactive status, the certified court security officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have court security officer powers as authorized under the statute under which he or she was appointed or employed;
- (3) (a) "Inactive status" means that unless the certification is in revoked status:

1. The person has been separated on or after **June 26, 2007**~~[December 1, 1998]~~, from the agency by which he or she was employed or appointed and has no peace officer or court security officer powers; or
 2. The person is on military active duty for a period exceeding three hundred sixty-five (365) days.
- (b) The person may remain on inactive status. A person who is on inactive status and who returns to a court security officer position shall have certification status restored if he or she has successfully completed the training course under KRS 15.3975(1), has not committed an act for which his or her certified status may be revoked pursuant to KRS 15.3973, and successfully completes an in-service training course as prescribed in an administrative regulation promulgated by the Kentucky Law Enforcement Council.
- (c) A person returning from inactive to active certification as a court security officer after June 26, 2007, under KRS 15.380 to 15.404 shall meet the following minimum qualifications:
1. Be a citizen of the United States;
 2. Possess a valid license to operate a motor vehicle;
 3. Be fingerprinted for a criminal background check;
 4. Not have been convicted of any felony; **a misdemeanor under KRS 510.120, 510.130, or 510.140; a second or subsequent offense under KRS 510.148; a criminal attempt, conspiracy, facilitation, or solicitation to commit any degree of rape, sodomy, sexual abuse, or sexual misconduct; or have had any offense listed under this subparagraph expunged;**
 5. Not be prohibited by federal or state law from possessing a firearm;
 6. Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;
 7. Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions, if having served in any branch of the Armed Forces of the United States;
 8. Have been interviewed by the employing agency; and
 9. Not have had certification as a peace officer permanently revoked in another state;
- (4) "Training deficiency status" means that unless the certification is in revoked status or inactive status, the certified court security officer is currently employed or appointed by an agency and has failed to meet all in-service training requirements. The officer's court security powers shall automatically terminate, and he or she shall not exercise court security officer powers in the Commonwealth until he or she has corrected the in-service training deficiency;
- (5) "Revoked status" means that the court security officer has no court security powers and his or her certification has been revoked by the Kentucky Law Enforcement Council for any one (1) of the **bases for revocation described under Section 5 of this Act**~~following reasons:~~
- ~~(a) Failure to meet or maintain training requirements;~~
 - ~~(b) Willful falsification of information to obtain or maintain certified status;~~
 - ~~(c) Certification was the result of an administrative error;~~
 - ~~(d) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;~~
 - ~~(e) Prohibition by federal or state law from possessing a firearm; or~~
 - ~~(f) Receipt of a dishonorable discharge, a bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States]; and~~
- (6) "Denied status" means that a person does not meet the requirements to achieve precertification status or certification status as a court security officer.

The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified court security officer.

➔Section 9. KRS 15.530 is amended to read as follows:

For the purposes of KRS 15.530 to 15.590:

- (1) "CJIS" means the Criminal Justice Information System;
- (2) "CJIS-full access course" means a training program of forty (40) hours approved by the Kentucky Law Enforcement Council;
- (3) "CJIS telecommunicator" means any ~~full-time~~ public employee, sworn or civilian, whose primary responsibility is to dispatch law enforcement units by means of radio communications for an agency that utilizes the Criminal Justice Information System, and is part of or administered by the state or any political subdivision;
- (4) "Commissioner" means the commissioner of the Department of Criminal Justice Training;
- (5) "Non-CJIS telecommunicator" means any full-time public employee, sworn or civilian, whose primary responsibility is to dispatch law enforcement units by means of radio communications for an agency that does not utilize the Criminal Justice Information System and is part of or administered by the state or any political subdivision;
- (6) "Non-CJIS telecommunicator academy" means a training course of one hundred twenty (120) hours approved by the Kentucky Law Enforcement Council; and
- (7) "Telecommunications academy" means a training course of one hundred sixty (160) hours approved by the Kentucky Law Enforcement Council.

➔Section 10. KRS 15.540 is amended to read as follows:

- (1) An agency *seeking to hire* ~~hire~~ a telecommunicator after July 15, 2006, shall certify to the ***Kentucky Law Enforcement Council that before being employed as a*** ~~Department of Criminal Justice Training before admission to the telecommunicator training program that the~~ telecommunicator, ***the applicant:***
 - (a) Is a citizen of the United States and has reached the age of majority;
 - (b)
 1. Is a high school graduate, regardless of whether the school is accredited or certified by a governing body, provided that the education received met the attendance and curriculum standards of Kentucky law at the time of graduation, as determined by the Kentucky Department of Education; or
 2. Possesses a High School Equivalency Diploma;
 - (c) Has not been convicted of a felony or other crimes involving moral turpitude as determined by submission of each applicant's fingerprints to the information systems section of the Department of Kentucky State Police and to the Federal Bureau of Investigation identification division, and by such other investigations as required by the hiring agency;
 - (d) Has taken a psychological suitability screening administered or approved by the Kentucky Law Enforcement Council to determine his or her suitability to perform the duties of a telecommunicator. Any agency that administers its own suitability screening shall certify the results to the department;
 - (e) Has taken a polygraph examination administered or approved by the Kentucky Law Enforcement Council to determine his or her suitability to perform the duties of a telecommunicator. Any agency that administers its own polygraph examination shall certify the results to the department; and
 - (f) Has passed a drug screening administered or approved by the Kentucky Law Enforcement Council. A person shall be deemed to have passed a drug screening if the results are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own screening shall certify passing results to the department.
- (2) Provisions of the Open Records Act, KRS 61.870 to 61.884, to the contrary notwithstanding, the applicant's home address, telephone number, date of birth, Social Security number, and results of any background investigation, psychological suitability screening, and polygraph examination conducted under this section shall not be subject to disclosure.

➔Section 11. KRS 95A.100 is amended to read as follows:

- (1) As used in this section and KRS 95A.102, "fire investigator" means a professional firefighter, as defined in KRS 95A.210, who has been appointed to ***investigate offenses under KRS Chapter 513*** ~~be a fire investigator~~ and to exercise peace officer powers.

- (2) The chief of a fire department may appoint a professional firefighter, as defined in KRS 95A.210, to be a fire investigator and to exercise peace officer powers in order to investigate crimes set out in KRS Chapter 513 and other crimes discovered in the course of investigation.
- (3) An individual appointed to be a fire investigator and to exercise peace officer powers shall take an oath to faithfully perform the duties of his or her office, shall affirm that he or she possesses the minimum qualifications under KRS 15.382, and shall undergo a basic training course approved by the Kentucky Law Enforcement Council.
- (4) The employing agency or jurisdiction of the fire investigator shall pay for the training required for certification by the Kentucky Law Enforcement Council.
- (5) Upon the Kentucky Law Enforcement Council's verification that the required standards have been met, a fire investigator shall have peace officer powers to investigate crimes set out in KRS Chapter 513 and other crimes discovered in the course of investigation.
- (6) A fire investigator may exercise his or her powers in a location other than the city or county in which he or she was appointed upon the request of:
 - (a) The chief of police, the chief of a fire department, the sheriff, or the chief executive of the city or county in which the fire investigator's services are to be utilized; or
 - (b) A federal agency that has an ongoing investigation in the city or county in which the fire investigator's services are to be utilized.
- (7) A fire investigator shall not:
 - (a) Patrol the roads, streets, or highways;
 - (b) Issue traffic citations; or
 - (c) Perform general law enforcement duties outside of investigating crimes set out in KRS Chapter 513 and other crimes discovered in the course of investigation.

➔Section 12. KRS 241.110 is amended to read as follows:

- (1) The fiscal court of any county in which traffic in alcoholic beverages is not forbidden under KRS Chapter 242 may by resolution declare that regulation of the traffic in that county is necessary. The county judge/executive shall immediately constitute a county alcoholic beverage control administrator for the county. However, the county judge/executive may decline to accept this office, or after accepting the office, the county judge/executive may resign from the office, and in either event, notwithstanding the provisions of KRS 241.120 to and including KRS 241.150, the county judge/executive may promptly appoint a person at least thirty (30) years of age, who at the time of the appointment has been a citizen of the state and a resident of that county for at least two (2) years next preceding the date of appointment, and who is able to qualify to serve at the pleasure of the county judge/executive as county alcoholic beverage control administrator for that county. Before entering upon the duties of county alcoholic beverage control administrator appointed by the county judge/executive, the appointee shall take the oath prescribed by Section 228 of the Constitution. Upon the qualification and appointment of this person as county alcoholic beverage control administrator for the county, the person shall immediately notify the department.
- (2) The compensation of the county alcoholic beverage control administrator, appointed by the county judge/executive, shall be fixed by the fiscal court in accordance with KRS 64.530. The county judge/executive may also appoint any investigators and clerks deemed necessary for the proper conduct of the county alcoholic beverage control administrator's office, their salaries likewise shall be fixed by the fiscal court pursuant to KRS 64.530, and they will serve at the pleasure of the county judge/executive.
- (3) No person shall be a county alcoholic beverage control administrator, an investigator, or an employee of the county under the supervision of the county alcoholic beverage control administrator, who would be disqualified to be a member of the board under KRS 241.100.
- (4) (a) The county alcoholic beverage control administrator, appointed by the county judge/executive, and the administrator's investigators, shall have full police powers of peace officers, and their jurisdiction shall be over the unincorporated areas of the county and within the corporate limits of any city in the county not having its own administrator. They may inspect any premises where alcoholic beverages are manufactured, sold, stored, or otherwise trafficked in, without first obtaining a search warrant.

- (b) *The county judge/executive, serving as the county alcoholic beverage control administrator, shall not have the power to make arrests unless he or she is certified under KRS 15.380 to 15.404.*
- (5) Before entering upon official duties, each county administrator shall take the oath prescribed in Section 228 of the Constitution.
- ➔Section 13. KRS 431.074 is amended to read as follows:
- (1) The Administrative Office of the Courts shall retain an index of expungement orders entered under KRS 431.073 *or 431.078*.
- (2) The index shall only be accessible to persons preparing a certification of eligibility for expungement pursuant to KRS 431.079 *or the Kentucky Law Enforcement Council for the purpose of verifying qualifications under Section 3 of this Act*.
- (3) If the index indicates that the person applying for expungement has had a prior felony expunged under KRS 431.073, the person preparing the report may, notwithstanding the provisions of KRS 431.073, access the expunged record and include information from the expunged record in the certification.

Signed by Governor April 4, 2023.

CHAPTER 171

(HB 64)

AN ACT relating to peace officer certification and declaring an emergency.

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

- ➔Section 1. KRS 15.400 is amended to read as follows:
- (1) The effective date of KRS 15.380 to 15.404 shall be December 1, 1998. All peace officers employed as of December 1, 1998, shall be deemed to have met all the requirements of KRS 15.380 to 15.404 and shall be granted certified status as long as they:
- Remain in continuous employment of the agency by which they were employed as of December 1, 1998, and are employed within *three hundred sixty-five (365)* ~~one hundred (100)~~ days by another law enforcement agency subject to the provisions of KRS 15.380 to 15.404;
 - Retired from employment with certified status on or after July 1, 2008, and are reemployed no later than one hundred (100) days from March 15, 2011, by a law enforcement agency subject to KRS 15.380 to 15.404; or
 - Have successfully completed an approved basic training course approved and recognized by the Kentucky Law Enforcement Council pursuant to KRS 15.440(1)(d) when seeking employment with another law enforcement agency.
- (2) Any peace officers employed after December 1, 1998, shall comply with all minimum standards specified in KRS 15.380 to 15.404 or comply with the requirements set forth in KRS 15.440(1)(d)6. Persons newly employed or appointed after December 1, 1998, shall have one (1) year within which to gain certified status or they shall lose their law enforcement powers.
- (3) The Open Records Act notwithstanding, the person's home address, telephone number, date of birth, Social Security number, background investigation, medical examination, psychological examination, and polygraph examination conducted for any person seeking certification pursuant to KRS 15.380 to 15.404 shall not be subject to disclosure.

➔Section 2. Whereas it is critical to ensure that local school districts and local police departments are able to attract and hire highly qualified peace officers, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 4, 2023.

CHAPTER 172

(SB 79)

AN ACT relating to the Safe at Home Program.

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

➔Section 1. KRS 14.260 is amended to read as follows:

~~(1) As funds are available, the Secretary of State, or designee, shall promulgate administrative regulations to expand the address protection program to allow an applicant or specified guardians to apply to have a substitute address designated to serve as the address of the participant. Any program created under this section shall:~~

~~(a) Collaborate with the Kentucky Commission on Women;~~

~~(b) Establish criteria to prohibit certain individuals, including any individual required to register as a sex offender, from participation in the program;~~

~~(c) Allow a participant to request that state and local agencies use the substitute address as the address of the participant, but agencies may show that they have a bona fide statutory or administrative requirement for the actual address;~~

~~(d) Be open to individuals that are victims of domestic violence and abuse, stalking, any victim of an offense or an attempt to commit an offense defined in KRS Chapter 510, 530.020, 530.064(1)(a), 531.310, or 531.320, or any victim of a similar federal offense or a similar offense from another state or territory;~~

~~(e) Allow an applicant to submit evidence, including a sworn statement, to show that he or she is a victim of a qualifying offense.~~

~~(2) Participation in any program established under this section shall not affect custody or visitation orders in effect prior to or established during program participation, nor shall it constitute evidence of any offense and shall not be considered for purposes of making an order allocating parental responsibilities or parenting time.~~

~~(3) No actionable duty nor any right of action shall accrue against the state, any entity operating an address protection program for the state, an individual operating in his or her professional capacity on behalf of the confidential address protection program established in this section, or an employee of the state or municipality in the event of negligent acts that result in the disclosure of a program participant's actual address.]~~

~~(1) [(4)] The *Safe at Home Program* [address protection program] fund is hereby created as a separate trust fund in the State Treasury. The *Safe at Home Program* [address protection program] fund shall consist of amounts received from fees collected pursuant to KRS 23A.208 and 24A.178, amounts received from appropriations, and any other proceeds from gifts, grants, federal funds, or any other funds, both public and private, made available for the purposes of this section.~~

~~(2) [(5)] The *Safe at Home Program* [address protection program] fund shall be administered by the Secretary of State to operate and maintain the *Safe at Home Program* [confidential address protection program] established in *Section 3 of this Act* [this section] and shall not be used for any other purposes.~~

~~(3) [(6)] Notwithstanding KRS 45.229, *Safe at Home Program* [address protection program] fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.~~

~~(4) [(7)] Any interest earnings of the *Safe at Home Program* [address protection program] fund shall become a part of the *Safe at Home Program* [address protection program] fund and shall not lapse.~~

~~(5) [(8)] Moneys deposited in the *Safe at Home Program* [address protection program] fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.~~

➔Section 2. KRS 14.300 is amended to read as follows:

As used in KRS 14.300 to 14.318 unless the context otherwise requires:

- (1) "Address" means a residential street address, school address, or work address of an individual, as specified on the application of an individual to be a program participant under this section;
- (2) "Applicant" means a person applying for certification in the *Safe at Home* ~~address confidentiality~~ Program under KRS 14.300 to 14.318;
- (3) *"Application assistant" means a private individual, employee or volunteer of a government agency, or an employee or volunteer of a nonprofit program that provides counseling, referral, shelter, or other specialized service to victims of domestic violence, rape, sexual assault, human trafficking, stalking, or other crimes, who has been designated by the respective agency or program, and who has been trained and registered by the Secretary of State to assist individuals in establishing a safety program and in the completion of program applications;*
- ~~(4)(3)~~ "Criminal offense against a victim who is a minor" has the same meaning as in KRS 17.500;
- ~~(5)(4)~~ "Domestic violence and abuse" has the same meaning as in KRS 403.720;
- ~~(6)(5)~~ "Program participant" means a person certified as a program participant under KRS 14.300 to 14.318;
- (7) *"Human trafficking" means an offense or attempt to commit an offense as defined in:*
- (a) *KRS 529.100;*
 - (b) *18 U.S.C. sec. 1589;*
 - (c) *18 U.S.C. sec. 1592;*
 - (d) *22 U.S.C. sec. 7102(8);*
 - (e) *22 U.S.C. sec. 7102(11); or*
 - (f) *22 U.S.C. sec. 7102(12);*
- ~~(8)(6)~~ "Sex crime" means an offense or an attempt to commit an offense defined in:
- (a) KRS Chapter 510;
 - (b) KRS 530.020;
 - (c) KRS 530.064(1)(a);
 - (d) *KRS 531.120;*
 - ~~(e)(d)~~ KRS 531.310;
 - ~~(f)(e)~~ KRS 531.320; or
 - ~~(g)(f)~~ Any criminal attempt to commit an offense specified in this subsection, regardless of the penalty for the attempt;
- ~~(9)(7)~~ "Specified offense" means:
- (a) Domestic violence and abuse;
 - (b) Stalking;
 - (c) A sex crime;
 - (d) *Human trafficking;*
 - ~~(e)(d)~~ A criminal offense against a victim who is a minor;
 - ~~(f)(e)~~ A similar federal offense; or
 - ~~(g)(f)~~ A similar offense from another state or territory; and
- ~~(10)(8)~~ "Stalking" means conduct prohibited under KRS 508.140 and 508.150.

➔ Section 3. KRS 14.302 is amended to read as follows:

- (1) *The Safe at Home Program is hereby established within the Office of the Secretary of State.* ~~[On or after July 1, 2013, the Secretary of State shall create a crime victim address protection program.]~~
- (2) *The Safe at Home Program shall be operated with the intent to protect victims of:*

- (a) *Domestic violence;*
- (b) *Human trafficking;*
- (c) *Stalking;*
- (d) *Sexual assault;*
- (e) *Rape; and*
- (f) *Other sexual crimes as defined by KRS 17.500.*

(3) *The Safe at Home Program shall authorize the use of designated addresses for victims, their minor children, and all other individuals residing with the victim.*

~~(4)(2)~~ The *Safe at Home Program*~~[crime victim address protection program]~~ shall be open to victims of a specified offense who are United States citizens and residents of Kentucky, without any cost to the program participant.

~~(5)(3)~~ The Secretary of State shall require that each person employed in the Office of the Secretary of State directly responsible for the administration of the *Safe at Home Program*~~[crime victim address protection program]~~ submit his or her fingerprints to the Department of State. The Department of State shall exchange fingerprint data with the Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of each employee directly responsible for the administration of the program.

➔Section 4. KRS 14.304 is amended to read as follows:

(1) Upon the creation of the *Safe at Home Program*~~[crime victim address protection program]~~, *the following individuals may apply to the Secretary of State to have an address designated as his or her mailing address in place of his or her residential address:*

- (a) *An adult victim;*
- (b) *A parent or guardian acting on behalf of a minor when the minor resides with him or her;*
- (c) *A guardian acting on behalf of an incapacitated individual who is a victim of a specified offense; and*
- (d) *Any individuals residing with the victim*

~~[applicant, a parent or guardian acting on behalf of a minor, a guardian acting on behalf of a person who is declared incompetent, or a designee of an applicant or a parent or guardian of a minor or a guardian of a person declared incompetent who cannot for any reason apply themselves, may apply to the Secretary of State to have an address designated by the Secretary of State serve for voting purposes as the address of the applicant, the minor, or the incompetent person].~~

(2) The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State ~~[by administrative regulation]~~ and if it contains:

- (a) A sworn statement, *under penalty of perjury*, by the applicant that:
 1. *The applicant is a victim of a specified offense or resides in the same household as a victim of a specified offense;*~~[The applicant or the minor or the incompetent person on whose behalf the application is made is a victim of a specified offense in an ongoing criminal case or in a criminal case that resulted in a conviction by a judge or jury or by a defendant's guilty plea; or]~~
 2. *The applicant fears for his or her own safety or the safety of another person who resides in the same household; and*~~[The applicant or the minor or the incompetent person on whose behalf the application is made has been granted an order of protection as defined in KRS 403.720 and 456.010 by a court of competent jurisdiction within the Commonwealth of Kentucky and the order is in effect at the time of application;]~~
 3. *The applicant is not applying for certification as a program participant in order to avoid prosecution for a crime;*

~~[(b) A sworn statement by the applicant that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made.]~~

- (b)~~(e)~~ The mailing address and the phone number or numbers where the applicant can be contacted by the Secretary of State *or the Secretary of State's designee*;
- (c)~~(d)~~ The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of a specified offense, *jeopardize the applicant's safety, or increase the risk of violence to the applicant or members of the applicant's household*~~; and~~
- (d)~~(e)~~ *The date the application was prepared, the applicant's signature, and, if applicable, the signature of the application assistant who assisted the applicant in applying to be a program participant; and*~~[The signature of the applicant and of a representative of any office designated under KRS 14.310 as a referring agency who assisted in the preparation of the application, and the date on which the applicant signed the application.]~~
- (e) *A designation of the Secretary of State as agent for purposes of service of process and for receipt of first class mail, legal documents, and certified mail.*
- (3)~~(2)~~ Applications shall be filed with the Office of the Secretary of State. *Applicants may choose to consult with an application assistant for assistance with the application process or apply online directly through the portal designated by the Secretary of State.*
- (4)~~(3)~~ Upon the filing of a properly completed application, the Secretary of State shall certify the applicant as a program participant if the applicant is not required to register as a sex offender or is not otherwise prohibited from participating in the program.
- (5)~~(4)~~ Applicants shall be certified for *four (4)*~~[two (2)]~~ years following the date of filing unless the certification is withdrawn or invalidated before that date. *The Secretary of State shall send notification of an expiring certification and a renewal form to a program participant at least four (4) weeks prior to the expiration of the program participant's certification. The renewal need only be signed by the applicant and need not be made before an application assistant.* The Secretary of State shall promulgate an administrative regulation to establish a renewal procedure.
- (6)~~(5)~~ A person who falsely attests in an application that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made, *or household members residing with the applicant*, or who knowingly provides false or incorrect information upon making an application may be found guilty of a violation of KRS 523.030.
- (7)~~(6)~~ The addresses of individuals applying for entrance into the *Safe at Home Program*~~[crime-victim address-confidentiality program]~~ and the addresses of those certified as program participants shall be exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 to KRS 61.884. *An agency may not require the program participant to submit any new address that could be used to physically locate the participant. When creating a new public record, state and local agencies shall accept the address designated by the Secretary of State as a program participant's substitute address, unless the Secretary of State has determined that:*
- (a) *The agency has a bona fide statutory or administrative requirement for the use of the address which would otherwise be confidential under this chapter; and*
- (b) *This address will be used only for those statutory and administrative purposes.*
- (8)~~(7)~~ (a) *As part of the application process established by the Secretary of State pursuant to subsections (1) and (2) of this section, an applicant may request that state or local agencies be notified that an applicant has been certified and enrolled in the Safe at Home Program*~~[A program participant shall notify the Office of the Secretary of State of a change of address within seven (7) days of the change of address].~~
- (b) 1. *The Secretary of State shall provide to such agencies the address that has been designated by the Secretary of State to serve as the mailing address of the participant;*
2. *Agencies receiving such notification from the Secretary of State shall change any existing records to reflect the new address submitted under subparagraph 1. of this paragraph;*
3. *Notifications under this section shall not affect residency designations; and*

4. *Subparagraph 2. of this paragraph shall not apply to paper records if such records are more than five (5) years old and would be under the normal course of business maintained or archived in the event of an address change.*
- (9) *Except as provided for in subsection (10) of this section, if a program participant has notified a person in writing that he or she is a program participant, that person shall not knowingly disclose the program participant's:*
- (a) *Name;*
 - (b) *Home address;*
 - (c) *Work address; or*
 - (d) *School address.*
- (10) *Any person to whom a program participant has provided written notification that he or she is a program participant may knowingly disclose the program participant's name, and home, work, or school address if that person also lives, works, or goes to school at the address disclosed, or the participant has provided written consent to disclosure of the participant's name, home, work, or school address, for the purpose for which the disclosure will be made.*
- (11) *A program participant shall notify the Office of the Secretary of State of a change of address within fourteen (14) days of the change of address.*
- (12) *The Secretary of State shall provide verification of an individual's enrollment in the Safe at Home Program, as well as a personalized Safe at Home Program card. The Safe at Home Program verification card shall contain the participant's name, substitute address as designated by the Secretary of State, and any additional information as determined necessary to include by the Secretary of State.*
- (13) *Any person relocating or doing business in the Commonwealth of Kentucky who is a participant in a program in another state that is similar to the Safe at Home Program shall be deemed approved for inclusion in the Commonwealth of Kentucky's program for one (1) year. The Secretary of State shall promulgate administrative regulations establishing procedures necessary to recognize similar programs from outside the Commonwealth of Kentucky and enroll their participants. The following exceptions shall apply:*
- (a) *If the person is temporarily residing in the Commonwealth of Kentucky, he or she shall be considered a participant in the Safe at Home Program as long as he or she continues participation in such a program of a home state; or*
 - (b) *If the person is not residing in the Commonwealth of Kentucky but is doing business or engaged in other transactions there, the person shall be considered a participant in the Safe at Home Program as long as he or she continues to participate in a similar program in his or her state of residence.*

➔Section 5. KRS 14.306 is amended to read as follows:

- (1) The Secretary of State may cancel certification of a program participant if within fourteen (14) days:
- (a) From the date of the program participant changing his or her name, the program participant fails to notify the Secretary of State that he or she has obtained a name change; however, the program participant may reapply under his or her new name; or
 - (b) From the date of changing his or her address, the program participant fails to notify the Secretary of State of the change of address.
- (2) The Secretary of State shall cancel certification of a program participant who applies using false information.
- (3) *The Secretary of State shall cancel certification of a program participant who relocates outside the state of Kentucky.*
- (4) *The Secretary of State shall cancel certification of a program participant who is no longer eligible for the program.*
- (5)~~(3)~~ The Secretary of State shall send notice of certification cancellation to the program participant. The notice of certification cancellation shall set out the reasons for cancellation. The program participant has the right to appeal the decision within thirty (30) days under procedures established by the Office of the Secretary of State by administrative regulation.

~~(6)(4)~~ The Secretary of State shall cancel certification of a program participant who is required to register as a sex offender.

~~(7)(5)~~ A program participant may withdraw from the program by providing the Secretary of State with notice of his or her intention to withdraw from the program. The Secretary of State shall promulgate by administrative regulations a secure procedure by which to ensure that the program participant's request for withdrawal is legitimate.

➔Section 6. KRS 14.310 is amended to read as follows:

- (1) The Secretary of State shall establish a list of state and local agencies and nonprofit agencies that provide counseling and shelter services to victims of a specified offense to assist persons applying to be program participants. Any assistance and counseling rendered to applicants by the Office of the Secretary of State, ~~for~~ its designees, *or application assistants* shall in no way be construed as legal advice.
- (2) *The Secretary of State shall establish a training program for application assistants. Application assistants shall be required to complete an initial training program and become recertified every three (3) years.*
- (3) *The role of an application assistant shall be to explain the Safe at Home Program, assist the applicant in formulating a general safety plan, and direct the applicant to additional support services. It is the responsibility of the applicant to complete the required forms and ultimately determine whether he or she wishes to participate in the program.*

➔Section 7. KRS 23A.208 is amended to read as follows:

- (1) In addition to fees created by KRS 23A.205, 23A.206, and 23A.2065, an administrative fee of thirty dollars (\$30) shall be added to the costs that the defendant is required to pay for the following crimes:
 - (a) A sex crime, meaning an offense described in:
 1. KRS Chapter 510;
 2. KRS 530.020;
 3. KRS 530.064(1)(a);
 4. KRS 531.310; and
 5. KRS 531.320;
 - (b) Stalking, meaning conduct prohibited under KRS 508.140 and 508.150; and
 - (c) A criminal attempt, conspiracy, facilitation, or solicitation to commit the crimes set forth in this subsection.
- (2) The first one dollar and fifty cents (\$1.50) of each fee collected under this section shall be placed into the general fund, and the remainder of the fee shall be allocated by the clerk of the court on a quarterly basis to the *Safe at Home*~~[address protection]~~ Program fund established in KRS 14.260 to be used solely to establish, operate, and maintain the *Safe at Home*~~[confidential address protection]~~ Program established in KRS 14.260.
- (3) The court may waive all or any portion of the fee required by this section if the court finds that a person subject to the surcharge is indigent or financially unable to pay all or any portion of the surcharge. The court may waive only the portion of the surcharge that the court finds the person is financially unable to pay.

➔Section 8. KRS 24A.178 is amended to read as follows:

- (1) In addition to fees created by KRS 24A.175, 24A.176, and 24A.1765, an administrative fee of thirty dollars (\$30) shall be added to the costs that the defendant is required to pay for the following crimes:
 - (a) A sex crime, meaning an offense described in:
 1. KRS Chapter 510;
 2. KRS 530.020;
 3. KRS 530.064(1)(a);
 4. KRS 531.310; and
 5. KRS 531.320;
 - (b) Stalking, meaning conduct prohibited under KRS 508.140 and 508.150; and

- (c) A criminal attempt, conspiracy, facilitation, or solicitation to commit the crimes set forth in this subsection.
- (2) The first one dollar and fifty cents (\$1.50) of each fee collected under this section shall be placed into the general fund, and the remainder of the fee shall be allocated by the clerk of the court on a quarterly basis to the **Safe at Home**~~[address protection]~~ Program fund established in KRS 14.260 to be used solely to establish, operate, and maintain the **Safe at Home**~~[confidential address protection]~~ Program established in KRS 14.260.
- (3) The court may waive all or any portion of the fee required by this section if the court finds that a person subject to the surcharge is indigent or financially unable to pay all or any portion of the surcharge. The court may waive only the portion of the surcharge that the court finds the person is financially unable to pay.

Signed by Governor April 4, 2023.

CHAPTER 173

(SB 282)

AN ACT relating to victims of crime, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. KRS 49.280 is amended to read as follows:

As used in KRS 49.270 to 49.490, unless the context otherwise requires:

- (1) "Child" means any person less than eighteen (18) years of age;
- (2) "Claimant" means any of the following claiming compensation under KRS 49.270 to 49.490: a victim, a dependent of a deceased victim, a third person other than a collateral source, or an authorized person acting on behalf of any of them who is legally responsible for the expenses incurred by the victim as a result of the crime committed against the victim;
- (3) "Criminally injurious conduct" means conduct that occurs or is attempted in this jurisdiction, poses a substantial threat of personal physical~~[]~~ *or* psychological injury~~[]~~ or death, and is punishable by fine, imprisonment, or death. Criminally injurious conduct shall include an act of terrorism, as defined in 18 U.S.C. sec. 2331, committed outside of the United States against a resident of Kentucky. Acts which, but for the insanity or mental irresponsibility or lack of capacity of the perpetrator, would constitute criminal conduct shall be deemed to be criminally injurious conduct. The operation of a motor vehicle, motorcycle, train, boat, aircraft, or other vehicle in violation of law does not constitute a criminally injurious conduct unless the injury or death was intentionally inflicted, ~~[or]~~involved a violation of KRS 189A.010, driving under the influence, *or involved the operator of a vehicle in an accident who did not stop and disclose his or her identity as required by KRS 189.580;*
- (4) "Family," when used with reference to a person, shall mean:
- Any person related to such person within the third degree of consanguinity;
 - Any person maintaining a sexual relationship with such person; or
 - Any person residing in the same household with such person; and
- (5) (a) "Victim" means a needy person who suffers personal physical or psychological injury or death from a criminal act in Kentucky as a result of:
- Criminally injurious conduct;
 - A good-faith effort to prevent criminally injurious conduct; or
 - A good-faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.
- (b) "Victim" shall also mean a resident who is a victim of a crime occurring outside this state if:
- The crime would be compensable had it occurred inside this state; and

2. The crime occurred in a state which does not have a crime victim compensation program, for which the victim is eligible as eligibility is set forth in KRS 49.310.
- (c) "Victim" shall also mean a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. sec. 2331, committed outside the United States.

➔Section 2. KRS 49.370 is amended to read as follows:

- (1) No award shall be made unless the Crime Victims Compensation Board or board member, as the case may be, finds that:
- (a) Criminally injurious conduct occurred;
- (b) Such criminally injurious conduct resulted in personal physical or psychological injury to, or death of, the victim; and
- (c) Police or court records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police or court records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the board, for good cause shown, finds the delay to have been justified.
- (2) Except for claims related to sexual assault, human trafficking, and domestic violence, the board upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.
- (3) Any award made pursuant to KRS 49.270 to 49.490 shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services, including mental health counseling, necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. Mental health counseling shall be paid for a maximum of two (2) years, but only after proper documentation is submitted to the board stating what treatment is planned and for what period of time. The board shall have the power to discontinue payment of mental health counseling at any time within the two (2) year period. Replacement of eyeglasses and other corrective lenses shall be included in an award, provided they were stolen, destroyed, or damaged during the crime.
- (4) Any award made for loss of earnings or financial support may be considered for a claimant who has loss of support or wages due to the crime for which the claim is filed. Unless reduced pursuant to other provisions of KRS 49.270 to 49.490, the award shall be equal to net earnings at the time of the criminally injurious conduct; however, no such award shall exceed **three hundred dollars (\$300)**~~one hundred fifty dollars (\$150)~~ for each week of lost earnings or financial support. The wage earner or source of support must have been employed or paying support at the time the crime occurred. Said employment or support shall be verified by the staff of the board after information is provided by the claimant or victim. Should the claimant or victim fail to supply the board with the information requested, the portion of the claim for lost wages or support shall be denied. If there are two (2) or more persons entitled to an award as a result of the injury or death of a person which is the direct result of criminally injurious conduct, the award shall be apportioned by the board among the claimants.
- (5) The board is authorized to set a reasonable limit for the payment of funeral and burial expenses which shall include funeral costs, a monument, and grave plot. In no event shall an award for funeral expenses exceed **seven thousand five hundred dollars (\$7,500)**~~five thousand dollars (\$5,000)~~.
- (6) Any award made under KRS 49.270 to 49.490 shall not exceed **thirty thousand dollars (\$30,000)**~~twenty-five thousand dollars (\$25,000)~~ in total compensation to be received by or paid on behalf of a claimant from the fund.
- (7) No award shall be made for any type of property loss or damage, except as otherwise permitted in KRS 49.270 to 49.490.

➔Section 3. The moneys in the Crime Victims' Compensation Fund (KRS 49.480) necessary for payment of awards made in accordance with Section 2. of this Act are hereby appropriated for fiscal year 2022-2023 and fiscal year 2023-2024.

➔Section 4. Whereas, the provisions of this Act relate to programs funded in the 2022-2024 Executive Branch biennial budget, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 4, 2023.

CHAPTER 174

(SB 268)

AN ACT relating to financial support of a child or dependent after driving under the influence.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Disabled":*

1. *Means a legal disability as is measured by functional inabilities; and*
2. *Includes inabilities caused by psychological, psychiatric, or stress-related trauma, and refers to any person seventeen (17) years of age or older who is unable to make informed decisions with respect to his or her personal affairs to the extent that he or she lacks the capacity to provide for his or her physical health and safety or the physical health and safety of a minor child, including but not limited to health care, food, shelter, clothing, or personal hygiene; and*

(b) *"Totally and permanently disabled":*

1. *Means the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months; and*
2. *Includes a finding of permanent total disability by the Social Security Administration that a person is disabled and qualifies for benefits or a finding by an administrative law judge under KRS Chapter 342.*

(2) (a) *Notwithstanding any law to the contrary, if a defendant is convicted of a violation of KRS 189A.010 and the violation caused the death of a parent or guardian of a minor child or dependent or resulted in a finding by the court that a parent or guardian of a minor child or dependent is disabled or totally and permanently disabled, then the sentencing court may order the defendant to pay restitution in the form of financial support for the child or dependent to each child or dependent of the victim until the child or dependent reaches:*

1. *Eighteen (18) years of age; or*
2. *Nineteen (19) years of age if the child or dependent is still enrolled in high school.*

(b) *In determining an amount that is reasonable and necessary for the financial support of the victim's child or dependent, the court shall consider all relevant factors, including the:*

1. *Financial needs and resources of the child or dependent;*
2. *Financial resources and needs of the surviving parent or guardian of the child or dependent;*
3. *Standard of living to which the child or dependent is accustomed;*
4. *Physical and emotional condition of the child or dependent and the child's or dependent's educational needs;*
5. *Child's or dependent's physical and legal custody arrangements; and*
6. *Reasonable child care expenses of the surviving parent or guardian.*

(3) *The court shall order that payments made to financially support the child or dependent be made to the clerk of court as trustee for remittance to the child or dependent's surviving parent or guardian. The clerk shall remit the payments to the surviving parent or guardian within three (3) working days of receipt by the clerk. The clerk shall deposit all payments no later than the next working day after receipt.*

(4) *If a defendant who is ordered to pay restitution in the form of financial support for the child or dependent under this section is incarcerated and unable to pay the required restitution, the defendant shall have up to*

one (1) year after the release from incarceration to begin payment, including entering into a payment plan to address any arrearage.

- (5) *If a defendant's payments to financially support the child or dependent are set to terminate but the defendant's obligation is not paid in full, the payments to financially support the child or dependent shall continue until the entire arrearage is paid.*
- (6) (a) *If the surviving parent or guardian of the child or dependent brings a civil action against the defendant before the sentencing court orders restitution to financially support the child or dependent and the surviving parent or guardian obtains a judgment and full satisfaction of damages in the civil suit, restitution shall not be ordered under this section.*
- (b) *If the court orders the defendant to pay restitution to financially support the child or dependent under this section and the surviving parent or guardian subsequently brings a civil action and obtains a judgment, the restitution order shall be offset by the amount of the judgment awarded and paid by the defendant or the defendant's insurance for lost wages or permanent impairment of the power to work and earn money in the civil action.*

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

Signed by Governor April 4, 2023.

CHAPTER 175

(HB 553)

AN ACT relating to fiscal matters, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. 2022 Kentucky Acts Chapter 162, Part II, Capital Projects Budget, (4) Deferred Funding, at page 982, is amended to read as follows:

(4) Deferred Funding: (a) General Fund support to provide operating costs of \$204,200, use allowance of \$1,449,800 and nonrecurring furniture and equipment costs of \$500,000 for the Leslie County project is deferred to the 2024-2026 fiscal biennium.

(b) General Fund support to provide operating costs totaling \$234,000, use allowance payments totaling \$1,682,000 and nonrecurring furniture and equipment costs totaling \$750,000 for the Graves County project is deferred to the 2024-2026 fiscal biennium.

(c) General Fund support to provide operating costs totaling \$2,053,500 and nonrecurring furniture and equipment costs of \$3,575,000 for six judicial center projects authorized by the 2020 General Assembly is deferred to the 2024-2026 fiscal biennium.

(d) It is the intent of the General Assembly that all projects in paragraphs (a), (b), and (c) of this subsection shall be funded using resources previously appropriated for projects that no longer require use allowance debt payments in the 2024-2026 fiscal biennium.

(e) General Fund support to provide additional annualized use allowance payments totaling \$50,600 attributable to a project scope increase for the Bath County facility project authorized by the 2018 General Assembly and based on \$575 per square foot is deferred to the 2024-2026 fiscal biennium.

(f) General Fund support to provide additional annualized use allowance payments totaling \$251,200 attributable to a project scope increase for the Barren County facility project authorized by the 2020 General Assembly and based on \$610 per square foot is deferred to the 2024-2026 fiscal biennium.

(g) General Fund support to provide additional annualized use allowance payments totaling \$63,500 attributable to a project scope increase for the Butler County facility project authorized by the 2020 General Assembly and based on \$610 per square foot is deferred to the 2024-2026 fiscal biennium.

(h) General Fund support to provide additional annualized use allowance payments totaling \$64,100 attributable to a project scope increase for the Clinton County facility project authorized by the 2020 General Assembly and based on \$610 per square foot is deferred to the 2024-2026 fiscal biennium.

(i) General Fund support to provide additional annualized use allowance payments totaling \$105,200 attributable to a project scope increase for the Crittenden County facility project authorized by the 2020 General Assembly and based on \$575 per square foot is deferred to the 2024-2026 fiscal biennium.

(j) General Fund support to provide additional annualized use allowance payments totaling \$790,800 attributable to a project scope increase for the Jessamine County facility project authorized by the 2020 General Assembly and based on \$575 per square foot is deferred to the 2024-2026 fiscal biennium.

(k) General Fund support to provide additional annualized use allowance payments totaling \$278,400 attributable to a project scope increase for the Scott County facility project authorized by the 2020 General Assembly and based on \$575 per square foot is deferred to the 2024-2026 fiscal biennium.

(l) General Fund support to provide additional annualized use allowance payments totaling \$288,400 attributable to a project scope increase for the Madison County facility project authorized by the 2021 General Assembly and based on \$500 per square foot is deferred to the 2024-2026 fiscal biennium.

(m) General Fund support to provide additional annualized use allowance payments totaling \$97,000 attributable to a project scope increase for the Graves County facility project authorized by the 2022 General Assembly and based on \$610 per square foot is deferred to the 2024-2026 fiscal biennium.

(n) General Fund support to provide additional annualized use allowance payments totaling \$101,200 attributable to a project scope increase for the Leslie County facility project authorized by the 2022 General Assembly and based on \$610 per square foot is deferred to the 2024-2026 fiscal biennium.

➔Section 2. 2022 Kentucky Acts Chapter 162, Part II, Capital Projects Budget, A. Judicial Branch, 2. Local Facilities Fund, 004. Hardin County – HVAC Project, at page 983, is amended to read as follows:

004. Hardin County - HVAC Project

General Fund	3,000,000	-0-
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(1) Hardin County - HVAC Project Scope and Authority: The fiscal year 2022-2023 project scope for the Hardin County - HVAC Project shall be no more than \$6,000,000, of which General Fund moneys in the amount of \$3,000,000 are appropriated above. Any increase in project scope above \$3,000,000 shall not constitute additional General Fund appropriations.

(2) Facility Title: Pursuant to KRS Chapter 26A, Hardin County shall accept title to the facility within six months of notification by the Administrative Office of the Courts of the completion of the project.

➔Section 3. 2022 Kentucky Acts Chapter 199, Part I, Operating Budget, A. General Government, 9. Department for Local Government, (10) Jail Arraignment Equipment Grants, at page 1639, is amended to read as follows:

(10) Jail Arraignment Equipment Grants: Included in the above General Fund appropriation is a one-time allocation of \$15,000,000 in fiscal year 2022-2023 for jail arraignment equipment grants. The Department for Local Government shall coordinate with the Kentucky Jailer's Association to implement a statewide video arraignment system within county jails that is compatible with technology used by the Administrative Office of the Courts. *Notwithstanding KRS 45.229, any portion of these funds that have not been expended by the end of fiscal year 2022-2023 shall not lapse and shall carry forward into fiscal year 2023-2024.*

➔Section 4. 2022 Kentucky Acts Chapter 199, Part I, Operating Budget, A. General Government, 9. Department for Local Government, (11) Community Development Projects, at pages 1639 to 1640, as amended by 2022 Kentucky Acts Chapter 239 and 2023 Regular Session HB 448, is further amended to read as follows:

(11) Community Development Projects: Included in the above General Fund appropriation are the following one-time allocations for the 2022-2024 fiscal biennium:

- (a) \$3,500,000 in each fiscal year to the Boone's Ridge Appalachian Wildlife Foundation for Boone's Ridge in Bell County;
- (b) \$15,000,000 in each fiscal year to the Todd County Fiscal Court for the natural gas pipeline project;
- (c) \$200,000 in fiscal year 2022-2023 to the United Methodist Mountain Mission to support operations;

- (d) \$400,000 in each fiscal year to the Kentucky Pilots Association Education Foundation;
- (e) \$2,000,000 in fiscal year 2022-2023 to the Paducah Symphony;
- (f) \$4,300,000 in fiscal year 2022-2023 to the Louisville Orchestra;
- (g) \$100,000 in fiscal year 2022-2023 to the Hickman County Fiscal Court for the Civil War Days;
- (h) \$2,500,000 in fiscal year 2022-2023 to the Paintsville High School STEM Program;
- (i) \$10,000,000 in each fiscal year to the Lincoln County Fiscal Court for the natural gas pipeline project;
- (j) \$200,000 in each fiscal year to the Backroads of Appalachia in Harlan, Kentucky, to support economic development;
- (k) \$1,500,000 in each fiscal year to the Russell County Regional Agribusiness Training Facility;
- (l) \$750,000 in fiscal year 2022-2023 to the City of Lancaster for the fire department substation;
- (m) \$500,000 in fiscal year 2023-2024 to the Fern Creek Community Center in Louisville, Kentucky;
- (n) \$750,000 in fiscal year 2023-2024 to the Hart County Chamber of Commerce;
- (o) \$300,000 in fiscal year 2023-2024 to the City of Greensburg for beautification projects;
- (p) \$20,000 in fiscal year 2022-2023 to the City of Wilmore for the Downtown Greenstage;
- (q) \$6,000 in fiscal year 2022-2023 to the Jessamine County Fiscal Court for the High Bridge Firehouse;
- (r) \$50,000 in fiscal year 2022-2023 to the Jessamine County Fiscal Court for land acquisition at the High Bridge boat ramp;
- (s) \$1,400,000 in fiscal year 2022-2023 to the city of Williamsburg for renovation and expansion of the Kentucky Splash Waterpark and Campground;
- (t) \$10,000,000 in fiscal year 2022-2023 to the Louisville Zoo for construction of Kentucky trails habitat. Notwithstanding KRS 45.229, any portion of these funds that have not been expended by the end of fiscal year 2022-2023 shall not lapse and shall carry forward into fiscal year 2023-2024;
- (u) \$2,500,000 in fiscal year 2022-2023 to the City of Corbin for the Corbin Arena and Corbin Center;
- (v) \$1,000,000 in fiscal year 2022-2023 to the City of Barbourville for ~~construction of~~ ~~renovations to the~~ Barbourville City Hall;
- (w) \$1,250,000 in fiscal year 2022-2023 to the Jackson County Fiscal Court for a new building for the Jackson County Emergency Medical Services;
- (x) \$400,000 in fiscal year 2022-2023 to the KCEOC Community Action Partnership for a vocational and technical training facility;
- (y) \$750,000 in fiscal year 2022-2023 to the City of Booneville for a city revitalization project;
- (z) \$4,250,000 in fiscal year 2022-2023 to the Manchester/Clay County Tourism Commission, Elk Hill Regional Industrial Authority, and Volunteers of America for land acquisition, renovations, upgrades, and Elk Hill Spec Building and Housing;
- (aa) \$500,000 in fiscal year 2022-2023 to the Scott United Ministries A.M.E.N. House for acquisition or construction of a new building;
- (ab) \$250,000 in fiscal year 2022-2023 to the Monroe County Fiscal Court to allow the Monroe County Medical Center to begin offering emergency medical services and paramedic training;
- (ac) \$600,000 in fiscal year 2022-2023 to the Housing Authority of Bowling Green to create a small business incubator for low income, minority, and women-owned businesses in collaboration with the city of Bowling Green;
- (ad) \$1,000,000 in fiscal year 2022-2023 to the City of Somerset Parks and Recreation for upgrades to youth sports facilities;
- (ae) \$3,000,000 in fiscal year 2022-2023 to the Christian County Board of Education for the Fort Campbell Industrial Training Partnership;

(af) \$3,000,000 in fiscal year 2022-2023 to the Barren County Family YMCA Foundation for a swimming pool facility, equipment, and HVAC and building repair;

(ag) \$1,000,000 in fiscal year 2022-2023 to the Green County Fiscal Court for industrial park site development;

(ah) \$1,000,000 in fiscal year 2022-2023 to the Kentucky Science and Technology Corporation for the VALOR program;

(ai) \$1,000,000 in fiscal year 2022-2023 to USA Cares to support veterans and their families;

(aj) \$650,000 in fiscal year 2022-2023 to Bellewood and Brooklawn to support the Avenues to Success pilot program;

(ak) \$5,000,000 in fiscal year 2022-2023 to the Bell County Fiscal Court to support industrial projects;

(al) \$1,000,000 in fiscal year 2023-2024 to the Green County Fiscal Court for the American Legion Park Trail Development Project; and

(am) \$195,000 in fiscal year 2022-2023 to Old Bardstown Village, Inc. for flood damage repairs.

➔Section 5. 2022 Kentucky Acts Chapter 199, Part II, Capital Projects Budget, J. Tourism, Arts and Heritage Cabinet, 2. Parks, at page 1747, is amended to read as follows:

2. PARKS

001. Maintenance Pool - 2022-2024

General Fund	10,000,000	10,000,000
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002. State Parks Improvement

Bond Funds	-0-	150,000,000 137,000,000
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003. Lake Barkley State Resort Park - Emergency Repairs

Bond Funds	-0-	7,500,000
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004. Jenny Wiley State Resort Park - Emergency Repairs

Bond Funds	-0-	5,500,000
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➔Section 6. There is hereby appropriated Restricted Funds in the amount of \$31,200 in fiscal years 2022-2023 and 2023-2024 to the Board of Respiratory Care budget unit to support continuing services.

➔Section 7. There is hereby appropriated Restricted Funds in the amount of \$80,000 in fiscal year 2022-2023 to the Board of Social Work budget unit to support continuing services.

➔Section 8. Notwithstanding KRS 157.360(9), 157.410(3), 2021 (1st Extra.Sess.) Ky. Acts ch. 4, sec. 6, or any other statute to the contrary, the Department of Education shall recalculate the exact final amount of the common school funds for fiscal year 2022-2023 on or before June 1, 2023. The Kentucky Department of Education shall utilize the attendance data used to calculate each school district's respective SEEK distribution for the 2022-2023 school year to effectuate KRS 157.360(9). No school district shall receive less than the exact final amount of the common school funds for fiscal year 2022-2023 as determined on or before March 1, 2023.

➔Section 9. Whereas the provisions of this Act provide ongoing support for state government agencies and their functions, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 5, 2023.

CHAPTER 176

(HB 36)

AN ACT relating to the Kentucky Higher Education Student Loan Corporation.

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

➔Section 1. KRS 164A.040 is amended to read as follows:

- (1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that as a result of the adoption of the education amendments of 1976 by the Congress of the United States, being Public Law 94-482, it is essential, in order that the Commonwealth of Kentucky may continue to provide adequate educational opportunities to all of its citizens and residents, that the corporation be created and empowered to finance student loan operations in Kentucky by the issuance of its bonds and notes for the purpose of making and purchasing ~~insured~~ student loans.
- (2) The General Assembly hereby finds and declares further that in the performance of its duties, powers and responsibilities, the corporation will be performing essential public and governmental functions and shall be and constitute an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky for the purpose of promoting higher educational opportunities through a program of financing, making and purchasing of ~~insured~~ student loans.

➔Section 2. KRS 164A.050 is amended to read as follows:

- (1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.
- (2) The Kentucky Higher Education Student 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 and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of ~~insured~~ student loans.
- (3)
 - (a) Subject to paragraph (b) of this subsection, the corporation shall be governed by a board of directors consisting of:
 1. Eight (8) voting members chosen from the general public residing in the Commonwealth of Kentucky; and
 2. Seven (7) voting members of the board of directors of the Kentucky Higher Education Assistance Authority appointed by the Governor pursuant to KRS 164.746(1)(a)1., who shall serve terms of office on the corporation board of directors coextensive with their respective terms of office on the Kentucky Higher Education Assistance Authority board of directors.
 - (b) Upon resignation or expiration of the term of an appointed member of the board of the corporation and the Kentucky Higher Education Assistance Authority, that member's position shall be abolished to reduce the combined number of appointed members of the boards of the corporation and the Kentucky Higher Education Assistance Authority to ten (10) members.
 - (c) In addition, the president of the Council on Postsecondary Education, the secretary of the Finance and Administration Cabinet, the president of the Association of Independent Kentucky Colleges and Universities, the State Treasurer, and the commissioner of education, or their designees who shall be another official of the same cabinet or agency, shall serve as ex officio voting members.
- (4) The Governor shall appoint directors according to subsection (3)(a)1. of this section from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 to take office and to exercise all powers thereof immediately. The terms shall be staggered and shall be for a period of four (4) years each. Each director shall serve for the appointed term and, except as provided in subsection (3)(b) of this section, shall serve until a successor has been appointed and has duly qualified.
- (5) Except as provided in subsection (3)(b) of this section, in the event of a vacancy, the Governor may appoint a replacement director from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 who shall hold office during the remainder of the term so vacated.
- (6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

- (7) The board shall elect from its voting membership a chair, chair-elect, and secretary-treasurer. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.
- (8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary-treasurer of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary-treasurer may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.
- (9) 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 in respect of the board of directors.
- (10) Official actions may be taken by the corporation at meetings duly called by the chair upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors. In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.
- (11) Directors, except officers or employees of the state, shall receive one hundred dollars (\$100) compensation per day for their services and shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.
- (12) Recognizing that the corporation and the Kentucky Higher Education Assistance Authority are governed by identical boards of directors and managed by a common executive director and otherwise share staff functions, the two (2) organizations shall provide technical, clerical, and administrative assistance to each other and for the Asset Resolution Corporation, the Kentucky Educational Savings Plan Trust, and the Commonwealth postsecondary education prepaid tuition trust fund, together with necessary office space and personnel, and shall assist each other in all ways by the performance of any and all actions which may be useful or beneficial in the performance of their public functions.
- (13) The corporation shall enter into contracts with the Kentucky Higher Education Assistance Authority, the Asset Resolution Corporation, the Kentucky Educational Savings Plan Trust, and the Commonwealth postsecondary education prepaid tuition trust fund as may be proper and appropriate in respect to services which may include but not be limited to the servicing and collection of ~~insured~~ student loans or to facilitate the common administration, operation, and management of the contracting entities.

➔Section 3. KRS 164A.060 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but without limiting the generality of the foregoing, the following powers:

- (1) To make or participate in the making of ~~insured~~ student loans.
- (2) To purchase or participate in the purchase of ~~insured~~ student loans, which purchase may be from eligible lenders.
- (3) To sell or participate in the sale of ~~insured~~ student loans, which sale may be to eligible lenders or to the student loan marketing association.
- (4) To collect and pay reasonable fees and charges in connection with making, purchasing, and servicing or causing to be made, purchased, or serviced ~~insured~~ student loans by the corporation, including payment to the guarantee agency for services performed for the corporation.
- (5) To procure insurance in respect of all student loans made or purchased by the corporation.
- (6) To consent whenever it deems it necessary or desirable in the fulfillment of its corporate purposes to the modification of the rate of interest, time of payment of any installment of principal or interest or any other terms of any ~~insured~~ student loan to which the corporation is a party; provided, that no such consent shall be made or given if the effect of same would be to obviate insurance coverage in respect of any student loan.

- (7) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on its obligations for a period not exceeding two (2) years from their date, consulting, advisory and legal fees, and such other expenses as are necessary or incident to any such borrowing.
- (8) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes.
- (9) To make, execute, and effectuate any and all agreements or other documents with any federal or state agency or any person, corporation, association, partnership, or other organization or entity and perform other acts necessary or appropriate to accomplish effectively the purposes of this chapter.
- (10) To accept appropriations, loans, grants, revenue sharing, devises, gifts, bequests and federal grants, and any other aid from any source whatsoever and to agree to, and to comply with, conditions incident thereto.
- (11) To sue and be sued in its own name and to plead and be impleaded.
- (12) To maintain an office in the city of Frankfort, Kentucky, in conjunction with or in close proximity to the Kentucky Higher Education Assistance Authority and such other regional offices as may be required.
- (13) To adopt an official seal and alter the same at pleasure.
- (14) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties.
- (15) To employ fiscal consultants, attorneys, counselors, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation.
- (16) To invest any funds held in reserves or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the United States or its agencies and instrumentalities; provided, however, that the return on such investments shall not be violative of any laws and regulations regarding investment of the proceeds of any federal tax-exempt bond issue.
- (17) To issue its bonds and notes for the purpose of carrying out its corporate powers and duties as set forth in this chapter.
- (18) To service and collect educational loans for other lenders, holders, and educational institutions.
- (19) Except where specifically prohibited by law, to secure data from any other Commonwealth of Kentucky agency or instrumentality or from any other source in furtherance of any purposes of the corporation related to any program or function administered by the corporation.

Signed by Governor April 6, 2023.

CHAPTER 177

(HB 83)

AN ACT relating to interests in property.

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

➔Section 1. KRS 426.720 is amended to read as follows:

- (1) A final judgment for the recovery of money or costs in the courts of record in this Commonwealth, whether state or federal, shall act as a lien upon all real estate in which the judgment debtor has any ownership interest, in any county in which the following first shall be done:
 - (a) The judgment creditor, or *the judgment creditor's*~~[his]~~ counsel, shall file with the county clerk of any county a notice of judgment lien containing:
 1. The court of record entering the *final* judgment;~~[-]~~
 2. The civil action number of the suit in which the *final* judgment was entered;~~[-]~~
 3. *The date the final judgment was entered by the court of record;* and

4. The amount of the **final** judgment, including principal, interest rate, court costs, and any attorney fees;
 - (b) ~~The county clerk shall enter the notice in the lis pendens records in that office, and shall so note the entry upon the original of the notice;~~
 - (e) ~~The judgment creditor, or **the judgment creditor's** ~~his~~ counsel, shall send to the last known address of the judgment debtor or the judgment debtor's attorney of record, by regular first class mail, postage prepaid, or shall deliver to the **judgment** debtor personally, a copy of the notice of judgment lien, which notice shall include:

 1. The text of KRS 427.060; and ~~also~~
 2. The following notice, or language substantially similar:

"Notice to Judgment Debtor. You may be entitled to an exemption under KRS 427.060, reprinted below. If you believe you are entitled to assert an exemption, seek legal advice."; and~~
 - (c) ~~(d)~~ ~~The judgment creditor, or **the judgment creditor's** ~~his~~ counsel, shall certify on the notice of judgment lien that a copy thereof has been mailed to the judgment debtor in compliance with paragraph (b) ~~(e)~~ of this subsection.~~
- (2) **Except as provided in subsection (3) of this section, a judgment lien created under this section:**
- (a) **Before the effective date of this Act, shall expire upon the earlier of:**
 1. **The expiration of the limitations period for the underlying final judgment under KRS 413.090; or**
 2. **Ten (10) years after the effective date of this Act; and**
 - (b) **On or after the effective date of this Act, shall expire ten (10) years after the date the final judgment was entered by the court of record.**
- (3) **The expiration of a judgment lien under subsection (2) of this section shall be postponed only if:**
- (a) 1. **At any time prior to the date of expiration:**
 - a. **A proceeding is filed in a court of record in this Commonwealth, whether state or federal, to enforce the judgment lien; and**
 - b. **The judgment creditor, or the judgment creditor's counsel, files a notice of the judgment lien enforcement proceeding in the county where the notice of judgment lien is lodged for record. The notice required under this subparagraph shall contain the following information:**
 - i. **The court of record in which the proceeding was filed;**
 - ii. **The type of proceeding filed;**
 - iii. **The case number of the proceeding;**
 - iv. **The date the proceeding was filed; and**
 - v. **A certification by the person filing the notice that he or she will comply with subparagraph 3. of this paragraph.**
 2. **A judgment lien whose expiration has been postponed under this paragraph shall expire on the following date:**
 - a. **The date a final judgment is entered in the proceeding to enforce the judgment lien; or**
 - b. **The date the proceeding to enforce the judgment lien is dismissed.**
 3. **Within ten (10) days of the date of expiration under subparagraph 2. of this paragraph, the judgment creditor, or the judgment creditor's counsel, shall file a notice in the county where the notice of judgment lien is lodged for record. The notice shall contain:**
 - a. **The information about the judgment lien enforcement proceeding contained in the notice filed under subparagraph 1. of this paragraph; and**

- b. *The judgment lien expiration date, as determined under subparagraph 2. of this paragraph; or*
- (b) 1. *Not less than one hundred twenty (120) days prior to the date of expiration:*
 - a. *A notice of judgment lien renewal is filed by the judgment creditor or the judgment creditor's counsel in the county where the notice of judgment lien is lodged for record. The notice of renewal of the judgment lien shall contain:*
 - i. *All of the information required under subsection (1)(a) of this section; and*
 - ii. *The amount of the judgment lien that remains unsatisfied; and*
 - b. *The judgment creditor or the judgment creditor's counsel sends a copy of the notice of the judgment lien renewal filed under this paragraph to the last known address of the judgment debtor or the judgment debtor's attorney of record, by regular first class mail, postage prepaid, or by personal delivery to the judgment debtor.*
- 2. *A judgment lien may be extended one (1) time in the manner provided under this paragraph for a period not to exceed five (5) years from the date of the expiration established under subsection (2) of this section.*
- (4) *A county clerk shall enter the notices filed under this section in the lis pendens records of the clerk's office and shall so note the entry upon the original of the notices.*
- (5) In any action involving real property which is subject to a judgment lien, service may be had upon the judgment creditor by serving the judgment creditor or the judgment creditor's *counsel*~~[attorney]~~ as shown in the notice of judgment lien.

➔Section 2. KRS 65.032 is amended to read as follows:

- (1) As used in this section:
 - (a) "Recorded instrument" means any document relating to real property, personal property, and any property for which a Kentucky certificate of title has been issued, including but not limited to deeds and mortgages; and
 - (b) "Portal" means a *website*~~[Web site]~~ or online database that:
 - 1. Is readily accessible by the public to provide remote online access to recorded instruments;
 - 2. Has a network security device that monitors incoming and outgoing network traffic and determines whether to allow or block specific traffic based on a defined set of security rules; and
 - 3. Has a system which provides for backup copies of recorded instruments to be securely stored.
- (2) By *January 1, 2024*~~[June 30, 2023]~~, all county clerks shall provide and maintain the portal that allows a person to electronically file any recorded instrument.
- (3) (a) By June 30, 2024, each county clerk shall provide and maintain a portal that contains the following recorded instruments:
 - 1. Filed on or after June 30, 1994:
 - a. Deeds;
 - b. Mortgages;
 - c. Fixture filings under the Uniform Commercial Code;
 - d. Plats of subdivided property;
 - e. All covenants, conditions, and restrictions that relate to real property;
 - f. Easements;
 - g. Leases or memorandum of leases;
 - h. Powers of attorney;
 - i. Land contracts;
 - j. Wills; and

- k. Affidavits that affect or clarify the title to property;
 - 2. Filed on or after June 30, 2004, child support liens;
 - 3. Filed on or after June 30, 2009:
 - a. Judgment liens;
 - b. Recoupment and unemployment liens; and
 - c. Lis pendens notices;
 - 4. Filed on or after June 30, 2014:
 - a. Federal and state tax liens; and
 - b. Civil penalty liens; and
 - 5. Filed on or after June 30, 2019:
 - a. Homeowner's association or condominium liens; and
 - b. Bail bonds.
 - (b) By June 30, 2026, each county clerk shall provide and maintain a portal that contains the following recorded instruments filed on or after June 30, 1966, but before June 30, 1994:
 - 1. Deeds;
 - 2. Mortgages;
 - 3. Fixture filings under the Uniform Commercial Code;
 - 4. Plats of subdivided property;
 - 5. All covenants, conditions, and restrictions that relate to real property;
 - 6. Easements;
 - 7. Leases or memorandum of leases;
 - 8. Powers of attorney;
 - 9. Land contracts;
 - 10. Wills; and
 - 11. Affidavits that affect or clarify the title to property.
 - (4) (a) Any fee charged by the county clerk for access to electronic copies of recorded instruments shall not exceed the actual cost of providing and maintaining the portal.
 - (b) If a county clerk contracts with an outside vendor to provide and maintain a portal required under this section, actual costs may include:
 - 1. Development and maintenance of a portal that provides access to recorded instruments;
 - 2. Personnel costs for companies that employ staff to support county clerks;
 - 3. Maintenance of cybersecurity credentials; and
 - 4. Insurance premiums.
 - (5) A county clerk may redact Social Security numbers from electronic copies of recorded instruments and other personal information from recorded instruments upon request from a law enforcement agency or judicial officer.
- ➔Section 3. KRS 389A.010 is amended to read as follows:
- (1) Notwithstanding any other statutory limitation of the jurisdiction of the District Court:
 - (a) Any trustee, guardian, conservator, or personal representative (hereinafter "fiduciary"), not otherwise possessing a power of sale, may move the District Court of the county in which the fiduciary has qualified for an order granting the fiduciary the power to sell or mortgage any real estate or any interest ***in the real estate*** ~~therein~~ possessed by his ***or her*** ward, decedent, or trust; and

- (b) The District Court may enter an order granting the fiduciary the power to sell or mortgage any real estate or any interest *in the real estate* ~~therein~~ possessed by the ward, decedent, or trust.
- (2) The motion shall include an adequate description of the property, a summary of the grounds for the motion, and a request that the bond of the fiduciary be increased in an adequate amount in accordance with KRS 395.130.
- (3) (a) Unless waived in writing, written notice of the hearing with a copy of the motion shall be served in a manner authorized by the Rules of Civil Procedure for the initiation of a civil action upon all persons who have a vested or contingent interest in the property interest sought to be sold.
- (b) Where the property interest sought to be sold belongs to a person under legal disability, service of notice and defense shall be governed by Civil Rules 4.04(3) and 17.03.
- (c) ~~(a)~~ In the case where the subject of the action is the property interest of a person under legal disability, unless waived in writing, written notice **shall be given** by certified mail, return receipt requested, ~~shall be given~~ to all known adult next of kin **and shall include** ~~off~~:
1. The nature and pendency of the action; and
 2. ***The time, date, and location of the hearing.***
- The notice required under this paragraph shall be given no later*** ~~Not less~~ than thirty (30) ***days prior to the date*** ~~days' notice of the time, date, and location~~ of the hearing on the motion.
- (d) At or before the hearing, the fiduciary or his ***or her*** attorney shall file an affidavit on personal knowledge showing compliance with ***paragraphs (a) to (c) of this subsection with the following attachments:***
1. ~~this paragraph and attaching~~ A copy of the notice given; and
 2. The original of all receipts returned.
- (e) ~~(b)~~ All ~~such~~ persons ***under this subsection*** shall have standing to present evidence and to be heard at the hearing.
- (4) ~~Any~~ ~~An aggrieved~~ party ***aggrieved by any order affecting the right of the fiduciary to sell or mortgage any property or property interest under this section*** may, no later than thirty (30) days from the date of the order, institute an adversary proceeding in Circuit Court pursuant to KRS 24A.120(2) ~~in respect to any order affecting the right of the fiduciary to sell or mortgage~~. Pending the entry of a final order and expiration of the time for an appeal therefrom, neither the fiduciary nor the owner of any vested interest shall make any conveyance or mortgage of the real estate and any attempt to do so shall be ***voidable by the court until:***
- (a) ***The time for an appeal of any final order entered following the hearing under subsection (3) of this section has expired pursuant to the Rules of Civil Procedure; or***
 - (b) ***Any adversary proceeding instituted under this subsection has been finally adjudicated and the time for an appeal from the final adjudication order has expired pursuant to the Rules of Civil Procedure*** ~~null and void~~.
- The provisions of this subsection shall be retroactive and shall apply to conveyances made prior to the effective date of this Act.***
- (5) No proceedings under this section shall be conducted by or before a commissioner of the District Court.
- ➔ Section 4. KRS 376.010 is amended to read as follows:
- (1) (a) Any person who performs labor or furnishes materials ~~for~~ for the erection, altering, or repairing of a house or other structure or for any fixture or machinery therein, for the excavation of cellars, cisterns, vaults, wells, or for the improvement in any manner of real property including the furnishing of agricultural lime, fertilizer, concrete pipe or drainage tile, crushed rock, gravel for roads or driveways, and materials used in the construction or maintenance of fences, by contract with, or by the written consent of, the owner, ***lessee***, contractor, subcontractor, architect, or authorized agent, shall have a lien thereon, and upon the land upon which the improvements were made, or on any interest the owner ***or lessee*** has therein, to secure the amount thereof with interest as provided in KRS 360.040, and costs.

- (b) *When improvements to property are made pursuant to an agreement or contract with a lessee, the lessee shall not be deemed the authorized agent of the owner unless the owner has designated the lessee, in writing, as the owner's agent for purposes of entering into the agreement or contract.*
- (c) The lien on the land or improvements shall be superior to any mortgage or encumbrance created subsequent to the beginning of the labor or the furnishing of the materials, and the lien, if asserted as hereinafter provided, shall relate back and take effect from the time of the commencement of the labor or the furnishing of the materials.
- (d) The lien shall not be for a greater amount in the aggregate than the contract price of the original contractor, and should the aggregate amount of the liens exceed the price agreed upon between the original contractor and the owner there shall be a pro rata distribution of the original contract price among the lienholders.
- (2) (a) The lien shall not take precedence over a mortgage or other contract lien or bona fide conveyance for value without notice, duly recorded or lodged for record according to law, unless the person claiming the prior lien shall, before the recording of the mortgage or other contract lien or conveyance, file in the office of the county clerk of the county ~~where~~^{wherein} he *or she* has furnished or expects to furnish labor or materials, a statement showing that he *or she* has furnished or expects to furnish labor or materials, and the amount *of the labor or materials* in full ~~thereof~~.
- (b) The lien shall not, as against the holder of a mortgage or other contract lien or conveyance, exceed the amount of the lien claimed or expected to be claimed as set forth in the statement.
- (c) The statement shall, in other respects, be in the form prescribed by KRS 376.080.
- (3) (a) *Any lien under this section shall only extend to the right, title, and interest of the person who contracts for the improvements as the right, title, and interest exist at the commencement of the improvements or as thereafter acquired in the real property. When improvements to property are made by a lessee in accordance with an agreement between the lessee and his or her lessor, the lien shall also extend to the interest of the lessor.*
- (b) *When a lease agreement expressly provides that the interest of the lessor shall not be subject to liens for improvements made by the lessee, the lessee shall notify the contractor making any improvements of the provisions in the lease, and the knowing or willing failure of the lessee to provide this notice to the contractor shall render the contract between the lessee and the contractor voidable at the option of the contractor.*
- (4) (a) A~~No~~ person who has not contracted directly with the owner, *the owner's* ~~or his~~ agent, *or the lessee, if applicable*, shall *not* acquire a lien under this section unless he *or she* notifies, in writing, the owner of the property to be held liable, *the owner's* ~~or his~~ authorized agent, *or the lessee, if applicable*, within seventy-five (75) days on claims amounting to less than *one thousand dollars* (\$1,000) and one hundred twenty (120) days on claims in excess of *one thousand dollars* (\$1,000) after the last item of material or labor is furnished, of his *or her* intention to hold the property liable and the amount for which he *or she* will claim a lien; ~~and~~
- (b) It shall be sufficient to prove that the notice was mailed to the last known address of the owner of the property upon which the lien is claimed, or to *the owner's* ~~his~~ duly authorized agent within the county in which the property to be held liable is located.
- (5) (a)~~(4)~~ A~~No~~ person who has not contracted directly with the owner or *the owner's* ~~his~~ authorized agent shall *not* acquire a lien under this section on an owner-occupied single or double family dwelling, the appurtenances or additions thereto, or upon other improvements for agricultural or personal use to the real property or real property contiguous thereto and held by the same owner, upon which the owner-occupant's dwelling is located, unless he *or she* notifies in writing the owner of the property to be held liable or *the owner's* ~~his~~ authorized agent not more than seventy-five (75) days after the last item of material or labor is furnished, of the delivery of the material or performance of labor and of his *or her* intention to hold the property liable and the amount for which he *or she* will claim a lien.
- (b) It shall be sufficient to prove that the notice was mailed to the last known address of the owner of the property upon which the lien is claimed, or to *the owner's* ~~his~~ duly authorized agent.
- (c) ~~The~~^{This} notice *under this subsection* is in lieu of the notice provided for in subsection (4) *of this section*~~(3)~~.

- (d) Notwithstanding the foregoing provisions of this subsection, the lien provided for under this section shall not be applicable to the extent that an owner-occupant of a single or double family dwelling, or owner of other property as described in this subsection has, prior to receipt of the notice provided for in this subsection, paid the contractor, subcontractor, architect, or authorized agent for work performed or materials furnished prior to such payment.
- (e) The contractor or subcontractor cannot be the authorized agent under this subsection.
- (f) This subsection shall apply to the construction of single or double family homes constructed pursuant to a construction contract with a property owner and intended for use as the property owner's dwelling.
- ~~(6)(5)~~ For purposes of this section, "labor" includes but is not limited to all supplies and work done by teams, trucks, machinery, and mechanical equipment, whether the owner furnishes a driver or operator or not.
- ~~(7)(6)~~ ***As used in this section:***
 - (a) "Supplies" includes small tools and equipment reasonably necessary in performing the work required to be done, including picks, shovels, sledge hammers, axes, pulleys, wire cables, ropes, and other similar items costing not more than fifty dollars (\$50) per item, and tires and tubes furnished for use on vehicles engaged in the performance of the work; ~~and~~
 - (b) "Supplies" also includes the cost of labor, materials, and repair parts supplied or furnished for keeping all machinery and equipment used in the performance of the work in good operating condition; and shall include the agreed or reasonable rental price of equipment and machinery used in performing the work to be done:
 1. The lien for rental equipment or machinery shall not be more than the aggregate sum of six (6) months' rental, and the aggregate amount of such rental shall not exceed sixty percent (60%) of the agreed value of the machinery or equipment; and
 2. The liens for supplies as defined in this subsection are subordinate to the liens for labor, material, and supplies as defined in this section.

➔Section 5. KRS 371.325 is amended to read as follows:

No waiver of defense clause in any retail installment contract shall operate to cut off any defense that an owner-occupant of a single or double family dwelling or the appurtenances or additions thereto may have acquired by virtue of a third party materialmen's lien under KRS 376.010~~(4)~~.

➔Section 6. The provisions of subsection (3) of Section 4 of this Act shall not apply to any lease or agreement entered into prior to the effective date of this Act.

Signed by Governor April 6, 2023.

CHAPTER 178

(SB 206)

AN ACT relating to retirement funds of urban-county governments.

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

➔Section 1. KRS 67A.430 is amended to read as follows:

- (1) (a) For a member whose participation date in the fund is prior to March 14, 2013, the rate of retirement annuity shall be two and one-half percent (2.5%) of average salary, as defined in KRS 67A.360(13), for each year of total service.
- (b) For a member whose participation date in the fund is on or after March 14, 2013, the rate of retirement annuity shall be two and one-quarter percent (2.25%) of average salary, as defined in KRS 67A.360(13), for each year of total service.

- (c) Fractional periods of service shall be considered in the calculation of such annuities according to the rate provided by paragraph (a) or (b) of this subsection, based upon the participation date of the member.
- (d) 1. Solely for purposes of calculating ~~average~~ salary under this subsection, a member who is receiving workers' compensation benefits from the government shall be credited with any salary the member would have otherwise been paid while receiving workers' compensation benefits if the member voluntarily elects to pay to the fund an amount equivalent to the employee contribution established by KRS 67A.510 on the salary the member did not receive during the period workers' compensation benefits were paid.
2. If the member elects to make the employee contribution payment to the fund authorized by this paragraph, the government shall pay to the fund an amount equivalent to the employer contribution required by KRS 67A.520 on the salary the member did not receive during the period workers' compensation benefits were paid.
3. The provisions of this paragraph shall be retroactive and shall apply to all active members of the fund who have not retired and to any member who retired on or after January 1, 2021.
- (2) Any retiree or surviving spouse who, as of July 1, 2023~~[2005]~~, ~~is~~~~[was]~~ receiving a monthly annuity of less than *one thousand five hundred dollars (\$1,500)*~~[one thousand two hundred fifty dollars (\$1,250)]~~ shall have *his or her monthly annuity*~~[the pension]~~ increased to *one thousand five hundred dollars (\$1,500)*, **except for those retirees and surviving spouses of retirees who are receiving disability benefits not due to occupational causes as provided by KRS 67A.470**~~[one thousand two hundred fifty dollars (\$1,250)]~~. Such increase shall be retroactive to July 1, 2005, and the retiree or surviving spouse shall receive a lump-sum payment equal to the difference between the amount of the monthly annuities received between July 1, 2005, and July 15, 2006, and the amount that would have been received had the monthly annuity been increased on July 1, 2005]. The board shall increase this annuity at the same rate as annually provided by KRS 67A.690(1), and such increase shall be determined and granted annually thereafter by the board. **Once every two (2) years and solely at the board's discretion, the board may increase the minimum monthly annuity provided by this subsection by no more than ten percent (10%) above the most recent poverty level guidelines established by the federal government for a two (2) person household and calculated on a monthly basis.**

Signed by Governor April 6, 2023.

CHAPTER 179

(SB 263)

AN ACT relating to the regionalization of public water and wastewater systems.

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

➔Section 1. KRS 224A.011 is amended to read as follows:

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

- (1) "Administrative fee" means a fee assessed and collected by the authority from borrowers and applicants under assistance agreements, to be used for operational expenses of the authority;
- (2) "Applicable interest rate" means the rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded;
- (3) "Applicant" means a governmental agency or private sector entity that has submitted an application to the office for a grant from the broadband deployment fund;
- (4) "Application" means an application submitted by an applicant for a grant from the broadband deployment fund;
- (5) **"Asset management plan" means a plan for the water and wastewater utility that includes:**
 - (a) **Identification of all the capital assets owned by or used in the operations of the utility;**

- (b) *A detailed engineering analysis of asset condition and useful life to be used to develop an infrastructure inspection, repair, and maintenance program;*
 - (c) *A description of how the utility will annually review the infrastructure needs;*
 - (d) *A description of how the utility will conduct planned maintenance;*
 - (e) *A description of how the utility will conduct timely repair, replacement, or upgrade of capital assets, including pumps, motors, and pipes; and*
 - (f) *An analysis of customer rates necessary to support the asset management plan, including emergency repairs;*
- (6) "Assistance agreement" means the agreement to be made and entered into by and between a governmental agency or a private entity and the authority, as authorized by this chapter, providing for a lease, loan, services, or grant to a governmental agency or a private entity or for the purchase of obligations issued by the governmental agency, and for the repayment thereof to the authority by the governmental agency or a private entity;
- ~~(7)(6)~~ "Authority" means the Kentucky Infrastructure Authority, which is created by this chapter;
- ~~(8)(7)~~ "Authority revenues" means the totality of all:
- (a) Service charges;
 - (b) Utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority;
 - (c) Any gifts, grants, or loans received, to the extent not otherwise required to be applied;
 - (d) Any and all appropriations made to the authority by the General Assembly of the Commonwealth of Kentucky, to the extent not otherwise required to be applied;
 - (e) All moneys received in repayment of and for interest on any loans made by the authority to a governmental agency, except as provided in KRS 224A.111, 224A.1115, and 224A.112, or as principal of and interest on any obligations issued by a governmental agency and purchased by the authority, or as receipts under any assistance agreement;
 - (f) The proceeds of bonds or long-term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing; and
 - (g) Payments under agreements with any agencies of the state and federal government;
- ~~(9)(8)~~ "Borrower or borrowing entity" means any agency of the state or its political subdivisions, any city, or any special district created under the laws of the state acting individually or jointly under interagency or interlocal cooperative agreements to enter into assistance agreements with the authority;
- ~~(10)(9)~~ "Broadband deployment fund" means a fund to assist with the construction, development, or improvement of broadband infrastructure, broadband services, or technologies that constitute a part of, or are related to, broadband infrastructure or broadband services, to provide for broadband service in underserved or unserved areas of the Commonwealth;
- ~~(11)(10)~~ "Broadband deployment project" means a proposed deployment of broadband service infrastructure set forth in an application for which grant funding under KRS 224A.112;
- ~~(12)(11)~~ "Broadband deployment project area" means a geographic area determined by census block, shapefile geospatial data, or list of addresses which has been proposed for grant funding under this section and KRS 224A.110, 224A.112, and 224A.1121;
- ~~(13)(12)~~ "Census block" means the smallest geographic unit used by the United States Census Bureau that is reported on the Federal Communications Commission (FCC) Form 477 relating to fixed broadband deployment data;
- ~~(14)(13)~~ "Community flood damage abatement project" means any structural or nonstructural study, plan, design, construction, development, improvement, or other activity to provide for flood control;
- ~~(15)(14)~~ "Construction" means and includes but is not limited to:

- (a) Preliminary planning to determine the economic and engineering feasibility of infrastructure projects, the engineering, architectural, legal, fiscal, and economic investigations, and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the construction of infrastructure or solid waste projects;
 - (b) The erection, building, acquisition, alteration, remodeling, improvement, or extension of infrastructure or solid waste projects; and
 - (c) The inspection and supervision of the construction of infrastructure or solid waste projects and all costs incidental to the acquisition and financing of same. This term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, infrastructure or solid waste projects;
- ~~(16)~~~~(15)}~~ "Dams" means any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:
- (a) Is or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the Energy and Environment Cabinet; or
 - (b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre feet or more;
- ~~(17)~~~~(16)}~~ "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, pumping, storing, treating, and distributing water for agricultural, industrial, commercial, recreational, public, and domestic use;
- ~~(18)~~~~(17)}~~ "Energy and Environment Cabinet" means the Kentucky Energy and Environment Cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the federal act;
- ~~(19)~~~~(18)}~~ "Federal act" means the Federal Clean Water Act (33 U.S.C. secs. 1251 et seq.) as said federal act may be amended from time to time in the future, or any other enactment of the United States Congress providing funds that may assist in carrying out the purposes of the authority;
- ~~(20)~~~~(19)}~~ "Federally assisted wastewater revolving fund" means that fund which will receive federal and state funds or the proceeds from the sale of revenue bonds of the authority for the purpose of providing loans to finance construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act;
- ~~(21)~~~~(20)}~~ "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within or a department or a cabinet of the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, or operate infrastructure or solid waste projects. This definition shall specifically apply but not by way of limitation to incorporated cities; counties, including any counties containing a metropolitan sewer district; sanitation districts; water districts; water associations; sewer construction districts; metropolitan sewer districts; sanitation taxing districts; a regional wastewater commission established under KRS 65.8901 to 65.8923; and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another in accordance with any regional or area compact, or intergovernmental cooperative agreements), now or hereafter established in accordance with the laws of the Commonwealth of Kentucky having and possessing the described powers described in this subsection;
- ~~(22)~~~~(21)}~~ "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing, or recovery of any natural resources, including heat and radioactivity, together with any sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating, or manufacturing processes;
- ~~(23)~~~~(22)}~~ "Infrastructure project" means any construction or acquisition of treatment works, facilities related to the collection, transportation, and treatment of wastewater as defined in KRS 65.8903, distribution facilities, or water resources projects instituted by a governmental agency or an investor-owned water utility which is approved by the authority and, if required, by the Energy and Environment Cabinet, Public Service Commission, or other agency; solid waste projects; dams; storm water control and treatment systems; gas or

electric utility; broadband deployment project; or any other public utility or public service project which the authority finds would assist in carrying out the purposes set out in KRS 224A.300;

- (24)~~(23)~~ "Infrastructure revolving fund" means that fund which will receive state funds, the proceeds from the sale of revenue bonds of the authority or other moneys earmarked for that fund for the purpose of providing loans or grants to finance construction or acquisition of infrastructure projects as defined in this section;
- (25)~~(24)~~ "Loan or grant" means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction or acquisition of any infrastructure project;
- (26)~~(25)~~ "Market interest rate" means the interest rate determined by the authority under existing market conditions at the time the authority shall provide financial assistance to a governmental agency;
- (27)~~(26)~~ ***"Merger" means the act of merging ownership, consolidating, or establishing common management or operations with a contract of more than five (5) years between more than one (1) governmental agency or utility as defined in KRS 278.010. This may include changes to contracts already in place. Merger does not require a physical connection to be established;***
- (28) "Obligation of a governmental agency" means a revenue bond, bond anticipation note, revenue anticipation note, lease, or other obligation issued by a governmental agency under KRS 58.010 et seq. or other applicable statutes;
- (29)~~(27)~~ "Office" means the Office of Broadband Development;
- (30)~~(28)~~ "Person" means any individual, firm, partnership, association, corporation, or governmental agency;
- (31)~~(29)~~ "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders the waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of these waters for domestic water supply, industrial or agricultural purposes, or recreational purposes;
- (32)~~(30)~~ "Prioritization schedules" means the list of wastewater treatment works, distribution facilities and water resources projects which the Energy and Environment Cabinet has evaluated and determined to be of priority for receiving financial assistance from the federally assisted wastewater revolving fund and the federally assisted drinking water revolving fund, or the list of infrastructure projects which the authority has evaluated and determined to be of priority for receiving financial aid from the infrastructure revolving fund. The evaluation by the authority of infrastructure projects for water systems shall be undertaken with input from the appropriate area development district;
- (33)~~(31)~~ "Recovered material" means those materials which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis;
- (34)~~(32)~~ "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material but does not mean a solid waste facility if solid waste generated by a recovered material processing facility is managed in accordance with KRS Chapter 224 and administrative regulations adopted by the cabinet;
- (35)~~(33)~~ "Revenue bonds" means special obligation bonds issued by the authority as provided by the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues as provided in the resolution authorizing the issuance of the bonds, and shall include revenue bond anticipation notes;
- (36)~~(34)~~ "Service charge" means any monthly, quarterly, semiannual, or annual charge to be imposed by a governmental agency, or by the authority, for any infrastructure project financed by the authority, which service charge arises by reason of the existence of, and requirements of, any assistance agreement;
- (37)~~(35)~~ "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state;

- (38)~~(36)~~ "Shapefile" means a file format for storing, depicting, and analyzing geospatial data showing broadband coverage;
- (39)~~(37)~~ "Solid waste" means "solid waste" as defined by KRS 224.1-010(30)(a);
- (40)~~(38)~~ "Solid waste facility" means any facility for collection, handling, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether the facility is associated with facilities generating the waste or otherwise, but does not include a container located on property where the waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility;
- (41)~~(39)~~ "Solid waste project" means construction, renovation, or acquisition of a solid waste facility which shall be instituted and owned by a governmental agency;
- (42)~~(40)~~ "Solid waste revolving fund" means that fund which shall receive state funds, the proceeds from the sale of revenue bonds of the authority, or other moneys earmarked for the purpose of providing loans or grants to finance solid waste projects defined in this section;
- (43)~~(41)~~ "State" means the Commonwealth of Kentucky;
- (44)~~(42)~~ "System" means the system owned and operated by a governmental agency with respect to solid waste projects, treatment works, or infrastructure projects financed as provided by the assistance agreement between the governmental agency and the authority;
- (45)~~(43)~~ "Treatment works" or "wastewater treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of wastewater or the abatement of pollution, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of wastewater, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any wastewater treatment works, including site acquisition of the land that will be an integral part of the wastewater treatment process, or is used for ultimate disposal of residues resulting from wastewater treatment, together with any other facilities which are deemed to be treatment works in accordance with the federal act;
- (46)~~(44)~~ "Underserved area" means any project area where broadband service with a minimum one hundred (100) megabits per second downstream and twenty (20) megabits per second upstream is not available;
- (47)~~(45)~~ "Unserved area" means any project area where broadband service with a minimum twenty-five (25) megabits per second downstream and three (3) megabits per second upstream is not available;
- (48)~~(46)~~ "Utility tax" means the tax which may be imposed by the authority on every purchase of water or sewer service in the Commonwealth of Kentucky;
- (49)~~(47)~~ "Variable rate revenue bonds" means revenue bonds the rate of interest on which fluctuates either automatically by reference to a predetermined formula or index or in accordance with the standards set forth in KRS 224A.120;
- (50)~~(48)~~ "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of these waters;
- (51)~~(49)~~ "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users;
- (52)~~(50)~~ "Water resources project" means any structural or nonstructural study, plan, design, construction, development, improvement, or any other activity including programs for management, intended to conserve and develop the water resources of the state and shall include all aspects of water supply, facilities to collect, transport, and treat wastewater as defined in KRS 65.8903, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures; and
- (53)~~(51)~~ "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface, or underground waters.

➔Section 2. KRS 224A.300 is amended to read as follows:

- (1) The General Assembly finds that it is necessary to encourage regionalization, consolidation, and partnerships among governmental agencies, and private parties when appropriate, with the goal of making ~~public~~~~[potable]~~ water and wastewater treatment ~~secure for~~~~[available to]~~ all Kentuckians. ***This is accomplished*** through the maximization of financial, ***managerial, and technical*** resources and the ~~protection~~~~[conservation]~~ of ~~source water~~~~[natural resources]~~ of the Commonwealth. Based on these findings, the General Assembly declares that the Kentucky Infrastructure Authority shall implement a program for ***reliable infrastructure and the security and safety of water and wastewater systems***~~[the provision of water services]~~ as authorized in the budget and directed by the General Assembly. ***The Energy and Environment Cabinet shall provide technical support to the Kentucky Infrastructure Authority as needed to implement this program.***
- (2) The authority shall be responsible for the management and operation of the Water Resource Information System. The authority shall maintain and, at least annually, update the information contained in this system to ensure its accuracy.
- (3) The authority may request all branches of state and local government, including special districts and water districts, to provide information relating to the status of existing plants, the financial condition of existing systems, and the existing regulatory authority held by agencies of government regarding the issue of water~~[resource development and]~~ management. All branches of state and local government shall, to the extent reasonable and appropriate, comply with such requests for information.
- (4) The authority shall promulgate administrative regulations that require a water supply and distribution system receiving or seeking funding to provide current information regarding the financial, managerial, and technical aspects of its system and, thereafter, to furnish updates to the information so provided.

➔Section 3. KRS 224A.302 is amended to read as follows:

Within twelve (12) months of July 14, 2000, each area development district shall establish~~[2020]~~ water management areas. The entire area within the area development district shall be included in one (1) or more~~[2020]~~ water management areas. The area development district may determine the boundaries of water management areas by considering geographical or topographical conditions and the potential integration of existing water systems. Where water management areas may lie within more than one (1) area development district, the area development districts shall share planning and plan implementation responsibilities. The area development districts shall develop maps of uniform scale to show, accurately and clearly, the boundaries of ~~each~~~~[the 2020]~~ water management ~~area~~~~[areas]~~.

➔Section 4. KRS 224A.304 is amended to read as follows:

A ~~[2020]~~water ***and wastewater*** service ***regionalization*** account is established within the infrastructure revolving fund. The purpose of the account shall be to ***enhance the effectiveness, reliability, and resilience of the state's water and wastewater systems, and where inefficiencies exist, to eliminate structural and administrative duplication of infrastructure and service delivery systems, by using a variety of tools, including but not limited to regionalization, merger, and consolidation***~~[assist in making potable water available to all Kentuckians by the year 2020]~~. The authority shall manage the account as funding is authorized by the General Assembly and in a manner to achieve the purposes set out in KRS 224A.300.

➔Section 5. KRS 224A.306 is amended to read as follows:

- (1) The authority shall require the following as conditions for receiving assistance from any fund administered by the authority for infrastructure projects related to water ***and wastewater*** service:
 - (a) Establishment and use of a financial accounting system that accounts for the operations of water treatment and distribution separately from all other operations of the applicant;
 - (b) Establishment of service rates based upon the cost of providing the service; and
 - (c) An agreement that the authority may require an audit to be conducted of the applicant at least once every two (2) years.
- (2) The authority shall require all applicants within a class to use the same accounting system. The authority may accept present accounting systems in use and applied uniformly to all applicants within a class, for example, the uniform system of accounts established by the National Association of Regulatory Utility Commissioners.
- (3) The authority may assist water providers to establish accounting systems that meet the requirements of this section. The authority may provide assistance by paying for third-party private contractors or assistance from the Kentucky Auditor of Public Accounts.

- (4) The authority may pay for costs related to establishing a new uniform accounting system for the use of governmental agencies that merge or consolidate their water services if:
- (a) The merging or consolidating entities use different accounting systems; *and*
 - (b) The merger or consolidation is consistent with a ~~2020~~ water management planning council plan as reviewed and prioritized under KRS 151.607; ~~and~~
 - (c) ~~At least one (1) governmental agency water system is a partner in the merger or consolidation.~~

~~(5) The authority may fund the requirements of this section from the 2020 water service account.~~

➔Section 6. KRS 224A.308 is amended to read as follows:

- (1) The authority shall establish a program to assist governmental agencies in detecting water loss from distribution lines *or develop or maintain asset management plans. This* ~~The program~~ may include contracting with third parties to conduct water loss audits, *the creation of asset management plans*, and leak detection. The *assistance* ~~program~~ may include giving low interest loans, on a priority basis established by the authority consistent with the findings and purposes set out in KRS 224A.300, for the repair or replacement of distribution facilities, deemed reasonable by the authority, undertaken as a result of the water loss audit.
- (2) The authority may forgive any amount of a distribution facility repair or replacement loan from the authority remaining unpaid if:
 - (a) Within five (5) years of entering into the loan agreement the governmental agency merges with or consolidates with at least one (1) other public or private water *system* ~~supplier~~; and
 - (b) The merger or consolidation is consistent with a ~~2020~~ water management planning council plan as reviewed and prioritized under KRS 151.607.

~~(3) The authority may fund the requirements of this section from the 2020 water service account.~~

➔Section 7. KRS 224A.310 is amended to read as follows:

- (1) The authority shall establish an incentive program that allocates funds from the *water and wastewater service regionalization account* ~~2020 water service account in a manner~~ that encourages the regionalization, merger, and consolidation of water *and wastewater* systems and elimination of structural and administrative duplication. *Established incentives* ~~The incentive funds~~ may be used by government owned and private systems.
- (2) The incentive program shall target water *and wastewater* systems that have high debt, inadequate operational and maintenance resources, high maintenance costs, old and inadequately maintained treatment works, a history of violations of the Division of Water's statutes and administrative regulations due to inadequate operational and maintenance resources, or insufficient financial resources to extend system service to unserved or underserved areas.
- (3) In developing the incentives to encourage governmental agencies to merge, regionalize, consolidate, and partner with target systems *and develop or maintain an asset management plan*, the authority shall give ~~the highest funding~~ priority to those projects which have been identified in a ~~2020~~ water management planning council plan prioritized under KRS 151.607 and meet the funding priorities established by the authority.

➔Section 8. KRS 224A.312 is amended to read as follows:

- (1) The authority shall develop an incentive program that allocates funds ~~from the 2020 water service account~~ to encourage new infrastructure projects to provide service to unserved areas and improve service to underserved areas of the state. The incentives may be used by government owned and private systems.
- (2) The incentives shall be developed to give ~~the highest funding~~ priority to those projects that have been identified in a ~~2020~~ water management planning council plan prioritized under KRS 151.607 and meet the funding priorities established by the authority.

➔Section 9. KRS 224A.316 is amended to read as follows:

- (1) In furtherance of the goal of making access to *public* ~~potable~~ water and wastewater *systems more resilient and* ~~treatment~~ available to *the public* ~~all Kentuckians~~, the General Assembly finds and declares that governmental agencies should provide to water and wastewater systems the requisite financial resources to:
 - (a) Develop the technical, managerial, and operational expertise needed to properly operate and maintain their drinking water and wastewater systems;

- (b) Conserve, protect, and maximize the resources needed to offer drinking water and wastewater systems and services;
 - (c) Upgrade drinking water and wastewater systems and services to prevent water loss *and inflow and infiltration* from degrading infrastructure; and
 - (d) Leverage existing finance with anticipated federal dollars or with other sources as may be available from time to time to create a larger pool of finance for water and wastewater systems to make improvements while keeping customer rates affordable.
- (2) The Kentucky Infrastructure Authority shall implement a program to assist governmental agencies that provide drinking water and wastewater services with the financial resources for both capital and non-capital expenses, including but not limited to:
- (a) Developing technical, operational, and maintenance resources and expertise;
 - (b) Improving utility infrastructure planning, repair, maintenance, renovation, and management of plants and assets;
 - (c) Obtaining technical expertise in areas of rate-setting, cost-of-service, and proper utility accounting standards for the utility type;
 - (d) Performing and correcting deficiencies from drinking water, wastewater, and financial audits;
 - (e) Providing finance for financial inadequacies, including debt service coverage through relief or refinance of the drinking water or wastewater system's debt;
 - (f) Payment assistance for other financial inadequacies such as excessive maintenance costs, fines and penalties from past violations, or consultants; and
 - (g) Extending finance for inadequately maintained distribution, collection, or treatment works, including service extensions to unserved or underserved areas and the renovation of treatment works to conserve resources.
- (3) ***The authority shall give priority for projects that are regional in nature and achieve the purposes set out in Section 2 of this Act.***

➔Section 10. KRS 151.601 is amended to read as follows:

- (1) ~~2020~~Water management planning councils shall be established for each county with the assistance of the appropriate area development district. Two (2) or more counties may form a multicounty 2020 water management planning council. The planning councils shall, as a minimum, be comprised of the following:
- (a) Each county ~~judge/executive~~~~judge-executive~~ or mayor of an urban-county government, or his or her authorized representative;
 - (b) One (1) representative selected by each community public water system, as defined in 401 KAR 8:010 sec. 1(71)(a), that provides water to persons in the county;
 - (c) One (1) representative selected by a local health department in the county; and
 - (d) One (1) representative selected by each city with a population equal to or greater than one thousand (1,000) based upon the most recent federal decennial census that is not a water supplier or distributor, unless that city chooses to be represented by another member of the planning council.
- (2) If, after the~~2020~~ water management planning council appointments have been made, a county judge/executive or mayor of an urban-county government determines that any areas of the county or urban county government remain unrepresented on the planning council, the county judge/executive or mayor of the urban-county government may appoint an individual to represent that area.
- (3) The county judge/executive or mayor of an urban-county government or the county judge/executive or the mayor's designated representative shall serve as the chair of the~~2020~~ water management planning council of which either the county judge/executive or the mayor is a member.
- (4) Members of the~~2020~~ water management planning councils shall serve without pay but may be reimbursed by counties or appointing agencies for reasonable expenses incurred to carry out the work of the councils.

- (5) The area development districts shall develop a forum for the chairpersons of the ~~[2020]~~ water management planning councils or multicounty planning councils to meet on at least a quarterly basis for the purpose of developing regional service strategies consistent with the findings and purpose set out in KRS 224A.300.

➔Section 11. KRS 151.603 is amended to read as follows:

- (1) Each ~~[2020]~~ water management planning council shall ~~[by July 1, 2001,]~~ develop **and maintain** a plan consistent with the county long-range water supply plan developed under KRS 151.114 and the water supply planning process set out in KRS Chapter 151 and administrative regulations of the cabinet and the purposes set out in KRS 224A.300. The plan shall include a water needs forecast for the county **in five (5) year increments within a twenty-five (25) year planning cycle with the first cycle beginning in 2025**~~[for dates five (5), ten (10), fifteen (15), and twenty (20) years after the year 2000].~~ The plan shall include a strategy for **improving reliability and resiliency of water service**, delivering **public**~~[potable]~~ water **to**~~[as needed into the]~~ underserved and unserved areas~~[of the county]~~, and shall **consider**~~[encourage the]~~ merger,~~[and]~~ consolidation, **and management** of water systems **to achieve the purposes set out in Section 2 of this Act**. The **Energy and Environment Cabinet, in collaboration with the authority as agreed upon in the State Revolving Fund Memorandum of Agreement**,~~[authority]~~ may disapprove and direct redevelopment of a plan under this subsection for inconsistencies with the purposes set out in KRS 224A.300.
- (2) The ~~[2020]~~ water management planning councils or multicounty planning councils shall assume the role and function of the planning units established to implement the water supply planning process set out in KRS 151.114 and administrative regulations of the cabinet.

➔Section 12. KRS 151.605 is amended to read as follows:

- (1) The ~~[2020]~~ water management planning councils or multicounty planning councils may employ a water service coordinator. Planning councils may jointly employ a water service coordinator. The water service coordinator shall assume the role and function of the county long-range planning representative appointed under KRS 151.114 and the water supply planning process set out in KRS Chapter 151 and administrative regulations of the cabinet. In addition, water service coordinators shall assist the ~~[2020]~~ water planning councils or multicounty planning councils in developing the plans required under KRS 151.603.
- (2) The Kentucky Infrastructure Authority may establish by administrative regulations a program to provide or supplement funding for a multicounty planning council water service coordinator for a period of three (3) years from July 14, 2000. There shall be no more than one (1) position funded per area development district.
- (3) All state agencies shall cooperate with and assist the ~~[2020]~~ water management planning councils as appropriate to accomplish the purposes set out in KRS 224A.300.

➔Section 13. KRS 151.607 is amended to read as follows:

- (1) After July 1, 2001, and annually thereafter, each area development district shall review and prioritize the planning councils' plans for underserved and unserved areas within the ~~[2020]~~ water management area for that district. The review and prioritization shall be conducted with the assistance and input of the authority and the water management councils for the counties or multicounty areas within a ~~[2020]~~ water management area. These prioritization plans shall be submitted to the authority for review and approval. The authority may suggest changes necessary for the purpose of qualifying for financial assistance from the ~~[2020]~~ water service account of the Kentucky Infrastructure Authority.
- (2) Factors to be considered in prioritizing the plans for underserved and unserved areas within a ~~[2020]~~ water management area include:
- (a) The current and potential customer base that would benefit from water service;
 - (b) The adequacy, cost-effectiveness, and dependability of water sources, water treatment capacity, and distribution lines that may be used to provide water service; and
 - (c) The potential to **consolidate or merge management or operations to provide efficient and affordable services**~~[eliminate or prevent duplication of water distribution lines and facilities that may be used to provide the service].~~

➔Section 14. The following KRS section is repealed:

224A.314 Study of water resource potential of underground coal mines and high yield water wells -- Funding for study.

Signed by Governor April 6, 2023.

CHAPTER 180

(SB 111)

AN ACT relating to health care.

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

➔Section 1. KRS 212.420 is amended to read as follows:

The director of health ~~may~~~~shall~~ be a physician, qualified as a public health administrator ~~[as provided by standards set up by the secretary of the Cabinet for Health and Family Services of Kentucky and duly qualified]~~ and licensed or eligible for license as a medical practitioner in the Commonwealth of Kentucky, **or may be a nonphysician with a minimum of a master's degree in public health or a related field and at least five (5) years of experience in a management capacity with a health department.** ~~The director of health shall be appointed by the mayor, and~~~~He~~ shall receive an annual salary of five thousand dollars (\$5,000), payable as other salaries are paid, and shall serve at the pleasure of the board. If said director of health is removed by the board, he **or she** shall be notified thereof in writing, and before such removal shall become effective said director shall have ten (10) days within which to make a written request for a public hearing in regard thereto. The board shall not be required to hold a hearing unless so requested by said director. If no such request is made said removal shall become effective upon the expiration of said ten (10) day period. If such request is made said public hearing shall be held at the office of the board within ten (10) days after such request is received by the board, and said director shall not be removed until after such hearing has been held, and a decision rendered by the board. The board's decision shall be final.

➔Section 2. KRS 212.635 is amended to read as follows:

- (1) The board shall appoint a commissioner for the department with the qualifications specified and subject to the provisions set forth under subsection (3) of this section.
- (2) The board shall hear and decide appeals from rulings, decisions, and actions of the department or commissioner, where the aggrieved party makes a written request to the board within thirty (30) days after the ruling, decision, or action complained of.
- (3) The commissioner ~~may~~~~shall~~ be a physician, qualified ~~as a~~ ~~[by training in public health, preventive medicine and]~~ **public health administrator** ~~[administration]~~ and ~~[duly qualified and]~~ licensed or eligible for a license as a medical practitioner in the Commonwealth of Kentucky, **or may be a nonphysician with a minimum of a master's degree in public health or a related field and at least five (5) years of experience in public health or a related field.** ~~The commissioner of the health department~~~~He~~ shall receive an annual salary as prescribed by the board subject to the provisions of the department's merit system, payable as other salaries are paid, and shall serve at the pleasure of the board. If the commissioner is removed by the board he **or she** shall be notified in writing. Before his **or her** removal shall become effective, the commissioner shall have fourteen (14) calendar days within which to make a written request for a hearing. The board shall not be required to hold a hearing unless so requested by the commissioner. If no such request is made the removal shall become effective upon the expiration of the fourteen (14) day period. If a request for a hearing is made the hearing shall be held at the office of the board within fourteen (14) calendar days after the request is received by the board. The commissioner shall not be removed until after a hearing has been held if requested and a decision rendered by the board. The board's decision shall be final.
- (4) The commissioner shall ~~devote his entire time to the duties of his office, which shall include teaching, research, service and administrative duties, and shall not engage in the private practice of medicine. He shall~~ serve as secretary to the board and keep full minutes of the proceedings of the board. The commissioner shall be the chief administrative officer of the department. The commissioner may employ and fix the compensation of, by contract or otherwise, all medical, technical, clerical, professional, and other employees necessary for the maintenance and operation of the department in accordance with the merit system as established by the board.

➔Section 3. KRS 212.790 is amended to read as follows:

- (1) The board shall appoint a district director of health for the department as set forth in this section.

- (2) The district director of health may be a physician, qualified ~~as a [by training in public health, preventive medicine and]~~ public **health administrator**~~[administration,]~~ and licensed or eligible for practice as a medical practitioner in the Commonwealth of Kentucky, or may be a nonphysician with a **minimum of a** master's degree in public health or **a** related field and at least five (5) ~~years of~~~~years]~~ experience in a management capacity with a health department. The district director of health shall receive an annual salary as prescribed by the board, subject to the provisions of the department's merit system, and shall serve at the pleasure of the board. If the district director of health is removed by the board, he **or she** shall be notified in writing, and within fourteen (14) days may make a written request for a hearing. If no request is made, the removal shall become effective upon the expiration of fourteen (14) days. If a request for hearing is made, the hearing shall be held at the office of the department within fourteen (14) calendar days after the request is received by the board. The district director of health shall not be removed until after a hearing has been held, and a decision rendered by the board. The board decision shall be final.
- (3) The district director of health shall serve as secretary to the board of health, the chief administrative officer of the department, and may employ and fix compensation of, by contract or otherwise, all employees necessary for the maintenance and operation of the department in accordance with the merit system as established by the board.

➔Section 4. KRS 212.350 is amended to read as follows:

- (1) In each county of the Commonwealth of Kentucky in which there is located a city of the first class or a consolidated local government, there is hereby created a board of health which board shall be a body politic and corporate, and shall be known as the "... (name of city of the first class) and ... (name of county) or (name of the consolidated local government) County Board of Health" hereinafter called the "board," which board shall have jurisdiction throughout such county, including all municipalities in said county with respect to and in accordance with the provisions of KRS 212.350 to 212.620. Wherever the words "city" and "mayor" are used in KRS 212.350 to 212.620 they shall mean such city of the first class or consolidated local government, and the mayor thereof. Said board may, in its corporate name, sue and be sued, contract and be contracted with, and acquire real, personal and mixed property by deed, purchase, gift, devise, lease, condemnation, or otherwise, and dispose of same; and may make appropriate rules and regulations and do all things reasonable or necessary effectively to carry out the work and properly to perform the duties intended or required by KRS 212.350 to 212.620. When and after the board herein created is organized as herein provided, and except as otherwise provided by law, said board shall succeed to and be vested with all of the functions, obligations, powers, and duties now being exercised by the county board of health, any department of public health, and by any board of tuberculosis hospital in such county; and thereupon the board of health and the department of health and the board of tuberculosis hospital shall cease to exist, and all laws and amendments of said laws, relating to and governing the aforesaid county board of health, department of public health, and board of tuberculosis hospital, in conflict with the provisions of KRS 212.350 to 212.620, shall, to the extent of such conflict, stand and be repealed.
- (2) Notwithstanding KRS 212.350 to 212.625, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, the county and such city of the first class shall agree that the county shall provide all staff support, including a director of health **with the qualifications specified and subject to the provisions set forth in Section 1 of this Act**, to the board of health through county officers, assistants, clerks, deputies, and employees. In such case, all officers, employees, and staff of the board of health and the department of health shall be deemed county employees, and shall be subject to the control of fiscal court. At the time the compact takes effect the officers, employees, and staff of the board of health and the department of health shall be transferred to the service of county government; provided that all such employees who at such time are in the classified service shall be continued in a classified service administered by county government. All functions, obligations, powers, and duties now vested in the board of health shall continue to be vested in the board unless changed by ordinance of the fiscal court of such county. Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing that city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the requirements of this subsection pertaining to county government shall be assumed by the consolidated local government.

➔Section 5. KRS 194A.705 is amended to read as follows:

- (1) The assisted living community shall provide each resident with access to the following services according to the lease agreement:
- (a) Assistance with activities of daily living and instrumental activities of daily living;

- (b) Three (3) meals and snacks made available each day, with flexibility in a secured dementia care unit to meet the needs of residents with cognitive impairments who may eat outside of scheduled dining hours;
 - (c) Scheduled daily social activities that address the general preferences of residents;
 - (d) Assistance with self-administration of medication; and
 - (e) Housing.
- (2) (a) The assisted living community may provide residents with access to basic health and health-related services.
- (b) If an assisted living community chooses to provide basic health and health-related services, the assisted living community shall supervise the residents.
- (c) *Notwithstanding KRS 194A.700(4)(e), in a long-term care facility that provides basic health and health related-services or dementia care services, a certified medication aide or an unlicensed staff person who has successfully completed a medication aide training and skills competency evaluation program approved by the Kentucky Board of Nursing may administer oral or topical medication, or preloaded injectable insulin to a resident under the authority of an available licensed practical nurse, registered nurse, or advanced practice registered nurse.*
- (d) *Unlicensed personnel who administer oral or topical medications to residents of an apartment-style personal care home required by KRS 194A.704 to convert to a licensed assisted living community shall comply with the medication aide requirements of paragraph (c) of this subsection no later than six (6) months from the effective date of this Act.*
- (3) (a) Residents of an assisted living community may arrange for additional services under direct contract or arrangement with an outside agent, professional, provider, or other individual designated by the resident if permitted by the policies of the assisted living community.
- (b) Permitted services for which a resident may arrange or contract include but are not limited to health services, hospice services provided by a hospice program licensed under KRS Chapter 216B, and other end-of-life services.
- (4) Upon entering into a lease agreement, an assisted living community shall inform the resident in writing about policies relating to the provision of services by the assisted living community and the contracting or arranging for additional services.
- (5) A resident issued a move-out notice shall receive the notice in writing and the assisted living community shall assist each resident upon a move-out notice to find appropriate living arrangements. Each assisted living community shall share information provided from the cabinet regarding options for alternative living arrangements at the time a move-out notice is given to the resident.
- (6) An assisted living community shall complete and provide to the resident:
- (a) Upon move-in, a copy of a functional needs assessment pertaining to the resident's ability to perform activities of daily living and instrumental activities of daily living and any other topics the assisted living community determines to be necessary; and
 - (b) After move-in, a copy of an updated functional needs assessment pertaining to the resident's ability to perform activities of daily living and instrumental activities of daily living, the service plan designed to meet identified needs, and any other topics the assisted living community determines to be necessary.

Signed by Governor April 6, 2023.

CHAPTER 181

(HB 311)

AN ACT relating to telehealth.

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

➔Section 1. KRS 205.559 is amended to read as follows:

- (1) The Cabinet for Health and Family Services and any managed care organization with whom the Department for Medicaid Services contracts for the delivery of Medicaid services shall provide Medicaid reimbursement for covered telehealth services and telehealth consultations, if the telehealth service or telehealth consultation:
 - (a) Is provided by a Medicaid-participating practitioner, including those employed by a home health agency licensed pursuant to KRS Chapter 216, to a Medicaid recipient or another Medicaid-participating practitioner at a different physical location; and
 - (b) Meets all clinical, technology, and medical coding guidelines for recipient safety and appropriate delivery of services established by the Department for Medicaid Services or the provider's professional licensure board.
 - (2) (a) For rural health clinics, federally qualified health centers, and federally qualified health center look-alikes, reimbursement for covered telehealth services and telehealth consultations shall:
 1. To the extent permitted under federal law, include an originating site fee in an amount equal to that which is permitted under 42 U.S.C. sec. 1395m for Medicare-participating providers if the Medicaid beneficiary who received the telehealth service or telehealth consultation was physically located at the rural health clinic, federally qualified health center, or federally qualified health center look-alike at the time of service or consultation delivery and the provider of the telehealth service or telehealth consultation is not employed by the rural health clinic, federally qualified health center, or federally qualified health center look-alike; or
 2. If the telehealth service or telehealth consultation provider is employed by the rural health clinic, federally qualified health center, or federally qualified health center look-alike, include a supplemental reimbursement paid by the Department for Medicaid Services in an amount equal to the difference between the actual reimbursement amount paid by a Medicaid managed care organization and the amount that would have been paid if reimbursement had been made directly by the department.
 - (b) A request for reimbursement shall not be denied solely because:
 1. An in-person consultation between a Medicaid-participating practitioner and a patient did not occur; or
 2. A Medicaid-participating provider employed by a rural health clinic, federally qualified health center, or federally qualified health center look-alike was not physically located on the premises of the clinic or health center when the telehealth service or telehealth consultation was provided.
 - (c) Telehealth services and telehealth consultations shall not be reimbursable under this section if they are provided through the use of a facsimile machine, text, chat, or electronic mail unless the Department for Medicaid Services determines that telehealth can be provided via these modalities in ways that enhance recipient health and well-being and meet all clinical and technology guidelines for recipient safety and appropriate delivery of services.
- (3) (a) A health-care facility that receives reimbursement under this section for consultations provided by a Medicaid-participating provider who practices in that facility and a health professional who obtains a consultation under this section shall establish quality-of-care protocols, which may include a requirement for an annual in-person or face-to-face consultation with a patient who receives telehealth services, and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.
- (b) The Department for Medicaid Services and any managed care organization with whom the department contracts for the delivery of Medicaid services shall not deny reimbursement for telehealth services covered by this section based solely on quality-of-care protocols adopted by a health-care facility pursuant to paragraph (a) of this subsection.
- (4) The cabinet shall not require a telehealth consultation if an in-person consultation with a Medicaid-participating provider is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.
- (5) ***Notwithstanding any provision of law to the contrary, neither the Department for Medicaid Services nor a Medicaid managed care organization with whom the department has contracted for the delivery of Medicaid services shall require that a health professional, as defined in KRS 205.510, or medical group***

maintain a physical location or address in this state to be eligible for enrollment as a Medicaid provider if the provider or group exclusively offers services via telehealth as defined in KRS 211.332.

- (6) The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section and KRS 205.5591.
- (7)~~(6)~~ Medicaid-participating practitioners and home health agencies are strongly encouraged to use audio-only encounters as a mode of delivering telehealth services only when no other approved mode of delivering telehealth services is available.
- (8)~~(7)~~ As used in this section:
- (a) "Federally qualified health center" means the same as in 42 U.S.C. sec. 1396d;
 - (b) "Federally qualified health center look-alike" means an organization that meets all of the eligibility requirements of a federally qualified health center but does not receive federal grants issued pursuant to 42 U.S.C. sec. 254b;
 - (c) "Originating site" means the site at which a Medicaid beneficiary is physically located at the time a telehealth service or telehealth consultation is provided; and
 - (d) "Rural health clinic" means the same as in 42 U.S.C. sec. 1395x.

➔Section 2. KRS 222.433 is amended to read as follows:

- (1) Upon receipt of the petition, the court shall examine the petitioner under oath as to the contents of the petition.
- (2) If, after reviewing the allegations contained in the petition and examining the petitioner under oath, it appears to the court that there is probable cause to believe the respondent should be ordered to undergo treatment, then the court shall:
 - (a) Set a date for a hearing within fourteen (14) days to determine if the respondent should be ordered to undergo treatment for a substance use disorder;
 - (b) Notify the respondent, the legal guardian, if any and if known, and the spouse, parents, or nearest relative or friend of the respondent concerning the allegations and contents of the petition and the date and purpose of the hearing; and the name, address, and telephone number of the attorney appointed to represent the respondent; and
 - (c) Cause the respondent to be examined no later than twenty-four (24) hours before the hearing date by two (2) qualified health professionals, at least one (1) of whom is a physician. The qualified health professionals:
 - 1. Shall certify their findings to the court within twenty-four (24) hours of the examinations;~~and~~
 - 2. May be subject to subpoena for cross-examination at the hearing, either in person, by telephone, or by videoconference; *and*
 - 3. *May conduct the examination required by this paragraph via telehealth as defined in KRS 211.332.*
- (3) If, upon completion of the hearing, the court finds by proof beyond a reasonable doubt that the respondent should be ordered to undergo treatment, then the court shall order such treatment for a period not to exceed sixty (60) consecutive days from the date of the court order or a period not to exceed three hundred sixty (360) consecutive days from the date of the court order, whatever was the period of time that was requested in the petition or otherwise agreed to at the hearing. Failure of a respondent to undergo treatment ordered pursuant to this subsection may place the respondent in contempt of court.
- (4) If, at any time after the petition is filed, the court finds that there is no probable cause to continue treatment or if the petitioner withdraws the petition, then the proceedings against the respondent shall be dismissed.

Signed by Governor April 6, 2023.

(HB 345)

AN ACT relating to Medicare supplement insurance.

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

➔SECTION 1. A NEW SECTION OF KRS 304.14-500 TO 304.14-550 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Non-age eligible person":*

1. *Means a person who is:*

- a. *Under the age of sixty-five (65); and*
- b. *Eligible for Medicare by reason other than age; and*

2. *Includes persons entitled to benefits under 42 U.S.C. sec. 426(b) or 426-1, as amended; and*

(b) *"Weighted average aged premium rate" means a premium rate calculated as follows:*

1. *First, multiply the premium rate for each age band, age sixty-five (65) and over, by the number of Kentucky insureds in-force in that age band to arrive at the total Kentucky premium for each age band age sixty-five (65) and over;*
2. *Then, calculate the sum of the Kentucky premium for all age bands age sixty-five (65) and over to arrive at the total Kentucky premium for all age bands age sixty-five (65) and over;*
3. *Then, calculate the sum of the Kentucky insureds in-force for all age bands age sixty-five (65) and over to arrive at the total number of Kentucky insureds in-force for all age bands age sixty-five (65) and over; and*
4. *Last, divide the total determined under subparagraph 2. of this paragraph by the total determined under subparagraph 3. of this paragraph to arrive at the weighted average aged premium rate.*

(2) *Except as provided in subsection (3)(b)1. of this section, an insurer shall not deny, condition the issuance or effectiveness of, or discriminate in the pricing of a Medicare supplement policy available for sale in this state because of the health status, claims experience, receipt of health care, or medical condition of an applicant if the applicant:*

(a) *Submits an application for the policy prior to or during the six (6) month period beginning on the first day of the first month in which the applicant is both:*

1. *Sixty-five (65) years of age or older; and*
2. *Timely enrolled for benefits under Medicare Part B without penalty under federal law;*

(b) *Is a non-age eligible person and:*

1. *Submits an application for the policy prior to or during the six (6) month period beginning on the first day of the first month in which the non-age eligible person is enrolled for benefits under Medicare Part B; or*
2. *Satisfies both of the following requirements:*
 - a. *The applicant was enrolled for benefits under Medicare Part B prior to the effective date of this section; and*
 - b. *Either:*
 - i. *The applicant submits an application for the policy during the six (6) month period beginning on the effective date of this section; or*
 - ii. *If an application is not available for the applicant to submit under subpart i. of this subdivision on or before the effective date of this section, the applicant makes a request for an application for the policy during the six (6) month period beginning on the effective date of this section; or*

(c) *Satisfies all of the following requirements:*

1. *At the time the application is submitted, the applicant is insured under a Medicare supplement policy;*
 2. *The application for the policy is submitted:*
 - a. *To an insurer that is different than the insurer that issued the applicant's current Medicare supplement policy; and*
 - b. *Within sixty (60) days of the applicant's birthday date; and*
 3. *The applicant seeks to maintain the same Medicare supplement plan.*
- (3) (a) *Subject to paragraph (b) of this subsection, all Medicare supplement policies available for sale in this state shall be made available to the applicants referenced in subsection (2)(b) of this section.*
- (b) *For policies made available to applicants referenced in subsection (2)(b) of this section:*
1. *The applicant shall not be charged more than the weighted average aged premium rate for the policy;*
 2. *The insurer shall demonstrate compliance with subparagraph 1. of this paragraph; and*
 3. *The policy shall not contain any waiting period or pre-existing condition limitation or exclusion.*

➔Section 2. KRS 304.14-520 is amended to read as follows:

- (1) Notwithstanding any other provision of ~~state~~ law *except subsection (3)(b)3. of Section 1 of this Act*~~[of this state]~~, a Medicare supplement policy ~~shall~~~~may~~ not:
- (a) Deny a claim for losses incurred more than six (6) months from the effective date of coverage for a pre-existing condition; ~~or~~~~-. The policy may not~~
 - (b) Define a pre-existing condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage.

➔Section 3. Sections 1 and 2 of this Act apply to Medicare supplement policies available, issued, or renewed in this state on or after January 1, 2024.

➔Section 4. (1) Insurers shall file all policy forms and rates and comply with any other regulatory requirements in a timely manner so as to ensure that applications are available for applicants to submit under Section 1 of this Act on or before January 1, 2024.

(2) The Department of Insurance shall take any and all regulatory action necessary in a timely manner so as to ensure that applications are available for applicants to submit under Section 1 of this Act on or before January 1, 2024, including but not limited to:

- (a) Reviewing policy forms, rates, and other information and forms; and
- (b) Promulgating any administrative regulations necessary to implement Section 1 of this Act.

➔Section 5. Sections 1, 2, and 3 of this Act take effect on January 1, 2024.

Signed by Governor April 6, 2023.

CHAPTER 183

(SB 96)

AN ACT relating to motor vehicles.

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

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

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

- (a) *"Local government" means any city, county, urban-county government, consolidated local government, charter county government, or unified local government of the Commonwealth;*
 - (b) *"Participant" means any person who drives or maintains a motor vehicle used in a racing event;*
 - (c) *"County roads" has the same meaning as in KRS 178.010(1)(b);*
 - (d) *"Streets" has the same meaning as in KRS 177.365(4); and*
 - (e) *"Racing event" means a motor vehicle race which is sanctioned by a nationally or internationally recognized racing organization and includes preparations, practices, and qualifications for the race.*
- (2) *A local government may provide permits to allow a racing event within its jurisdiction:*
- (a) *On county roads;*
 - (b) *On streets; or*
 - (c) *At airports, subject to approval from the relevant airport board.*
- (3) *A local government may charge an applicant for a permit under this section:*
- (a) *An application fee not to exceed one thousand dollars (\$1,000); and*
 - (b) *The cost of any expenses incurred by the local government to facilitate the racing event.*
- (4) *A local government that issues a permit for a racing event shall ensure the applicant for the permit has:*
- (a) *Adequate insurance to pay any damages incurred because of loss or injury to any person or property;*
 - (b) *Adequate security, emergency services, and necessary facilities provided during the racing event; and*
 - (c) *The ability to protect the health, safety, and welfare of the citizens of the local government, the race participants, and those attending the racing event.*
- (5) *For the facilitation of a racing event sanctioned under this section, a local government may:*
- (a) *Temporarily close roads, streets, alleys, sidewalks, and airport runways;*
 - (b) *Reroute pedestrian and motor vehicle traffic; and*
 - (c) *Waive local ordinances and traffic regulations.*
- (6) *No less than sixty (60) days prior to a scheduled racing event, a local government shall provide written notice to the Transportation Cabinet of any racing event permit issued under this section. The written notice shall include:*
- (a) *The time, date, and location of the racing event;*
 - (b) *The nationally or internationally recognized racing organization sponsoring the event;*
 - (c) *A road closure plan that specifies the streets, roads, alleys, sidewalks, and airport runways that will be temporarily closed or obstructed during the racing event;*
 - (d) *A traffic control plan that specifies the on-site traffic controls and detour routes to be used during the racing event; and*
 - (e) *The names and phone numbers of emergency and law enforcement contacts overseeing the racing event.*
- (7) *The route of a racing event under this section shall not use or cross any state maintained highway.*
- (8) *So long as the participants adhere to all requirements and regulations set forth by the nationally or internationally recognized racing organization sponsoring the racing event, participants in a racing event under this section shall be exempt from all vehicle equipment and operation standards of this chapter.*

➔ Section 2. KRS 189.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsection (1) or (4) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, KRS 189.450 to 189.458, KRS 189.4595 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.590, except subsection (1)(b) or (6)(b) of KRS 189.580,

KRS 189.345, subsection (6) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense. Any person who violates subsection (1)(a) of KRS 189.580 shall be fined not less than twenty dollars (\$20) nor more than two thousand dollars (\$2,000) or imprisoned in the county jail for not more than one (1) year, or both, unless the accident involved death or serious physical injury and the person knew or should have known of the death or serious physical injury, in which case the person shall be guilty of a Class D felony. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars (\$11) nor more than thirty dollars (\$30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

- (2) (a) 1. ***Except as provided in subparagraph 2. of this paragraph,*** any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.2713 shall be fined two cents (\$0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents (\$0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars (\$100) and shall not be more than five hundred dollars (\$500).
2. ***Any person who violates a posted bridge weight limit on a state-maintained bridge that is more than seventy-five (75) years old shall be fined:***
- a. ***Five hundred dollars (\$500) for the first offense;***
- b. ***One thousand dollars (\$1,000) for the second offense within a one (1) year period;***
- c. ***Two thousand dollars (\$2,000) for any subsequent offense within a one (1) year period.***
- The Transportation Cabinet shall erect signs warning drivers of the increased fines in this subparagraph. Signs erected under this subparagraph shall be placed in such a manner that drivers are given adequate warning in order to exit the road prior to crossing the bridge. If warning signs are not erected in accordance with this subparagraph, the fines in this subparagraph shall not apply and violators shall be fined under subparagraph 1. of this paragraph.***
- (b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars (\$100); otherwise, the penalties in paragraph (a) of this subsection shall apply.
- (c) Any person who violates any provision of subsection (2) or (3) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.2713, 189.280, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- (d) 1. Any person who violates the provisions of KRS 177.985 while operating on a route designated in KRS 177.986 shall be fined one hundred dollars (\$100).
2. Any person who operates a vehicle with a permit under KRS 177.985 in excess of eighty thousand (80,000) pounds while operating on a route not designated in KRS 177.986 shall be fined one thousand dollars (\$1,000).
- (e) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.
- (3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars (\$15).
- (b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars (\$35) nor more than two hundred dollars (\$200).
- (4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).

- (c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.
- (5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars (\$100) nor more than two hundred dollars (\$200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.
- (6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars (\$15) in excess of the cost of the repair of the road.
- (7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars (\$20) nor more than fifty dollars (\$50).
- (8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (9)
 - (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.
 - (b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100).
- (10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.
- (11) Any person who violates subsection (3) of KRS 189.560 shall be fined not less than thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.
- (12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.
- (13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars (\$20) nor more than twenty-five dollars (\$25).
- (15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars (\$20) nor more than one hundred dollars (\$100) for each offense.
- (16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars (\$100) and, upon subsequent convictions, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for thirty (30) days, or both.
- (17)
 - (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.
 - (b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Each violation shall constitute a separate offense.
- (18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars (\$35) nor more than one hundred dollars (\$100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.
- (19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

- (20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.
- (21) A person who operates a bicycle in violation of the administrative regulations promulgated pursuant to KRS 189.287 shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100).
- (22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars (\$25) nor more than three hundred dollars (\$300).
- (24) Any person who violates the provisions of KRS 189.125(3)(a) shall be fined fifty dollars (\$50). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.
- (25) Any person who violates the provisions of KRS 189.125(3)(b) shall not be issued a uniform citation, but shall instead receive a courtesy warning up until July 1, 2009. For a violation on or after July 1, 2009, the person shall be fined thirty dollars (\$30). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, a fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs. A person who has not been previously charged with a violation of KRS 189.125(3)(b) may elect to acquire a booster seat meeting the requirements of KRS 189.125. Upon presentation of sufficient proof of the acquisition, the charge shall be dismissed and no fees or costs shall be imposed.
- (26) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars (\$25). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional court costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.
- (27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.020 and 534.060.
- (28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:
 - (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and
 - (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.
- (29) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars (\$250). The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury, ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.
- (30) Any person who violates KRS 189.292 or 189.294 shall be fined twenty-five dollars (\$25) for the first offense and fifty dollars (\$50) for each subsequent offense.
- (31) Any person who violates KRS 189.281(5) or (7)(b) shall be subject to a fine of two hundred fifty dollars (\$250). This fine shall be subject to prepayment. A fine imposed under this subsection shall not be subject to court costs pursuant to KRS 24A.175, additional costs pursuant to KRS 24A.176, the fee imposed pursuant to KRS 24A.1765, or any other additional fees or costs.

Signed by Governor April 6, 2023.

CHAPTER 184**(HB 56)**

AN ACT relating to mental health services.

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

➔Section 1. KRS 210.005 is amended to read as follows:

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

- (1) "Individual with an intellectual disability" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period;~~[-]~~
- (2) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;~~[-]~~
- (3) "Chronic" means that clinically significant symptoms of mental illness have persisted in the individual for a continuous period of at least two (2) years, or that the individual has been hospitalized for mental illness more than once in the last two (2) years, and that the individual is presently significantly impaired in his ability to function socially or occupationally, or both;~~[-]~~
- (4) "Cabinet" means the Cabinet for Health and Family Services;~~[-]~~
- (5) "Deaf or hard-of-hearing" means having a hearing impairment so that a person cannot hear and understand speech clearly through the ear alone, irrespective of the use of any hearing aid device;~~[-]~~
- (6) "Secretary" means the secretary of the Cabinet for Health and Family Services; *and*
- (7) *"Regional community services program" means a community services program for mental health or individuals with an intellectual disability established in accordance with this chapter, a community mental health center, a certified community behavioral health clinic, or a certified eligible community behavioral health clinic.*

➔Section 2. KRS 210.370 is amended to read as follows:

- (1) *The following fifteen (15) regional service areas for regional community services programs are hereby created and established:*
 - (a) *Regional service area one (1), which shall include the counties of Ballard, Carlisle, Hickman, Fulton, McCracken, Graves, Marshall, Livingston, and Calloway;*
 - (b) *Regional service area two (2), which shall include the counties of Crittenden, Lyon, Caldwell, Hopkins, Muhlenberg, Trigg, Christian, and Todd;*
 - (c) *Regional service area three (3), which shall include the counties of Union, Henderson, Webster, McLean, Daviess, Ohio, and Hancock;*
 - (d) *Regional service area four (4), which shall include the counties of Logan, Simpson, Butler, Warren, Edmonson, Hart, Barren, Allen, Metcalfe, and Monroe;*
 - (e) *Regional service area five (5), which shall include the counties of Breckinridge, Meade, Grayson, Hardin, Larue, Nelson, Washington, and Marion;*
 - (f) *Regional service area six (6), which shall include the counties of Bullitt, Henry, Jefferson, Oldham, Shelby, Spencer, and Trimble;*
 - (g) *Regional service area seven (7), which shall include the counties of Boone, Kenton, Campbell, Carroll, Gallatin, Owen, Grant, and Pendleton;*
 - (h) *Regional service area eight (8), which shall include the counties of Bracken, Mason, Robertson, Fleming, and Lewis;*
 - (i) *Regional service area nine (9), which shall include the counties of Rowan, Bath, Montgomery, Menifee, and Morgan;*

- (j) *Regional service area ten (10), which shall include the counties of Greenup, Boyd, Carter, Elliott, and Lawrence;*
 - (k) *Regional service area eleven (11), which shall include the counties of Johnson, Magoffin, Martin, Floyd, and Pike;*
 - (l) *Regional service area twelve (12), which shall include the counties of Wolfe, Owsley, Lee, Breathitt, Leslie, Perry, Knott, and Letcher;*
 - (m) *Regional service area thirteen (13), which shall include the counties of Jackson, Rockcastle, Laurel, Clay, Knox, Whitley, Bell, and Harlan;*
 - (n) *Regional service area fourteen (14), which shall include the counties of Taylor, Adair, Green, Casey, Russell, Pulaski, Clinton, Cumberland, Wayne, and McCreary; and*
 - (o) *Regional service area fifteen (15), which shall include the counties of Anderson, Franklin, Woodford, Mercer, Boyle, Lincoln, Garrard, Jessamine, Fayette, Scott, Harrison, Bourbon, Nicholas, Clark, Madison, Powell, and Estill.*
- (2) *Notwithstanding subsection (1) of this section, any combination of cities or counties of over fifty thousand (50,000) population, and upon the consent of the secretary of the ~~cabinet~~[Cabinet for Health and Family Services,] any combination of cities or counties with less than fifty thousand (50,000) population, may establish a regional community services program[~~for mental health or individuals with an intellectual disability~~] and staff same with persons specially trained in psychiatry and related fields. Such programs and clinics may be administered by a community board for mental health or individuals with an intellectual disability established pursuant to KRS 210.370 to 210.460, or by a nonprofit corporation.*
- (3) *Notwithstanding any provision of law to the contrary and except as provided for in subsections (4) and (5) of this section:*
- (a) *A regional community services program may provide services outside of its regional service area as established in subsection (1) of this section, but when doing so, the regional community services program shall be considered, including by the cabinet, to be operating as a behavioral health services organization and not a regional community services program.*
 - (b) *A regional community services program shall not be required to obtain licensure or any other form of authorization from the cabinet to operate as a behavioral health services organization outside of its regional service area as established in subsection (1) of this section.*
 - (c) *When a regional community services program chooses to provide services as a behavioral health services organization outside of its regional service area as established in subsection (1) of this section, the regional community services program shall:*
 - 1. *Comply with all administrative regulations related to behavioral health services organization promulgated by the cabinet; and*
 - 2. *Be reimbursed by the Department for Medicaid Services or a managed care organization with whom the department has contracted for the delivery of Medicaid services in accordance with subsection (8)(b) of Section 4 of this Act.*
- (4) (a) *For any services being provided by a regional community services program outside of its regional service area as established in subsection (1) of this section prior to the effective date of this Act, the provisions of subsection (3) of this section apply on or after January 1, 2025.*
- (b) *Beginning on the effective date of this Act, the provisions of this subsection shall apply to any expansion of current out-of-region services including the provision of additional services in an out-of-region county in which the regional community services program is providing services on the effective date of this Act and any expansion of services into an out-of-region county in which the regional community services program is not providing services on the effective date of this Act.*
- (5) (a) *If a regional community services program notifies the secretary in writing that the regional community services program is unable to provide a service that is included in its respective plan and budget for the current fiscal year:*
- 1. *The secretary shall contact the regional community services programs in the regional service areas contiguous to the region that has notified the secretary to assess their interest in and ability to provide the service that the regional community service program indicated it is*

unable to provide. If a regional community services program in a contiguous regional service area is interested in and able to provide the service, the secretary shall approve it to provide that service in the regional service area of the regional community services program that made notice to the secretary; and

2. *If a regional community services program in a contiguous region is not interested in or is unable to provide the service, the secretary shall contact all other regional community services programs to assess their interest in and ability to provide the service that the regional community services program indicated it is unable to provide. If another regional community services program in a noncontiguous regional service area is interested in and able to provide the service, the secretary shall approve it to provide that service in the regional service area of the regional community services program that made notice to the secretary.*
- (b) *If the secretary receives joint notification from a regional community services program assigned to serve a specific county pursuant to subsection (1) of this section and a regional community services program whose region as established in subsection (1) of this section is contiguous to the region in which the county lies requesting that the regional community services program from the contiguous region be permitted to continue to provide an array of services that it was providing in the county in question on the effective date of this Act, the secretary shall approve and recognize the collaborative request.*
 - (c) *If a regional community services program is approved by the secretary pursuant to this subsection to provide services outside of its regional service area as established in subsection (1) of this section, the regional community services program shall be considered, including by the cabinet, to be operating as a regional community services program and shall be reimbursed by the Department for Medicaid Services or a managed care organization with whom the department has contracted for the delivery of Medicaid services accordingly.*

➔Section 3. KRS 210.410 is amended to read as follows:

- (1) The secretary of the ~~cabinet~~[Cabinet for Health and Family Services] is hereby authorized to make state grants and other fund allocations from the ~~cabinet~~[Cabinet for Health and Family Services] to assist any **regional service area established in Section 2 of this Act**, any combination of cities and counties, or nonprofit corporations in the establishment and operation of regional community mental health and intellectual disability programs which may provide primary care services and shall provide at least the following services:
 - (a) Inpatient services;
 - (b) Outpatient services;
 - (c) Partial hospitalization or psychosocial rehabilitation services;
 - (d) Emergency services;
 - (e) Consultation and education services; and
 - (f) Services for individuals with an intellectual disability.
- (2) The services required in subsection (1)(a), (b), (c), (d), and (e) of this section, in addition to primary care services, if provided, shall be available to the mentally ill, drug abusers and alcohol abusers, and all age groups including children and the elderly. The services required in subsection (1)(a), (b), (c), (d), (e), and (f), in addition to primary care services, if provided, shall be available to individuals with an intellectual disability. The services required in subsection (1)(b) of this section shall be available to any child age sixteen (16) or older upon request of such child without the consent of a parent or legal guardian, if the matter for which the services are sought involves alleged physical or sexual abuse by a parent or guardian whose consent would otherwise be required.

➔Section 4. KRS 205.560 is amended to read as follows:

- (1) The scope of medical care for which the Cabinet for Health and Family Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance

Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health and family services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including but not limited to the following categories, except where the aid is for the purpose of obtaining an abortion:

- (a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;
- (b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;
- (c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall include products for the treatment of inborn errors of metabolism or genetic, gastrointestinal, and food allergic conditions, consisting of therapeutic food, formulas, supplements, amino acid-based elemental formula, or low-protein modified food products that are medically indicated for therapeutic treatment and are administered under the direction of a physician, and include but are not limited to the following conditions:
 1. Phenylketonuria;
 2. Hyperphenylalaninemia;
 3. Tyrosinemia (types I, II, and III);
 4. Maple syrup urine disease;
 5. A-ketoacid dehydrogenase deficiency;
 6. Isovaleryl-CoA dehydrogenase deficiency;
 7. 3-methylcrotonyl-CoA carboxylase deficiency;
 8. 3-methylglutaconyl-CoA hydratase deficiency;
 9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);
 10. B-ketothiolase deficiency;
 11. Homocystinuria;
 12. Glutaric aciduria (types I and II);
 13. Lysinuric protein intolerance;
 14. Non-ketotic hyperglycinemia;
 15. Propionic acidemia;
 16. Gyrate atrophy;
 17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
 18. Carbamoyl phosphate synthetase deficiency;
 19. Ornithine carbamoyl transferase deficiency;
 20. Citrullinemia;
 21. Arginosuccinic aciduria;
 22. Methylmalonic acidemia;
 23. Argininemia;
 24. Food protein allergies;
 25. Food protein-induced enterocolitis syndrome;
 26. Eosinophilic disorders; and
 27. Short bowel syndrome;

- (d) Physician, podiatric, and dental services;
 - (e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);
 - (f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent; and
 - (g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph.
- (2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health and Family Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health and Family Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:
- (a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;
 - (b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health and Family Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;
 - (c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;
 - (d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health and Family Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;
 - (e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services; and
 - (f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

- (3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.
- (4) The rules and regulations of the Cabinet for Health and Family Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.
- (5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.
- (6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.
- (7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced practice registered nurse licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.
- (8)
 - (a) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the intellectually disabled exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the intellectually disabled through community mental health centers.
 - (b) *Except as provided in subsections (4) and (5)(c) of Section 2 of this Act, if a community mental health center, established pursuant to KRS Chapter 210, provides services to a recipient of Medical Assistance Program benefits outside of the community mental health center's regional service area, as established in Section 2 of this Act, the community mental health center shall not be reimbursed for such services in accordance with the department's fee schedule for community mental health centers but shall instead be reimbursed in accordance with the department's fee schedule for behavioral health service organizations.*
 - (c) *As used in this subsection, "community mental health center" means a regional community services program as defined in Section 1 of this Act.*
- (9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.
- (10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.
- (11) The Cabinet for Health and Family Services shall make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.
- (12)
 - (a) The Medical Assistance Program shall use the appropriate form and guidelines for enrolling those providers applying for participation in the Medical Assistance Program, including those licensed and regulated under KRS Chapters 311, 312, 314, 315, and 320, any facility required to be licensed pursuant

to KRS Chapter 216B, and any other health care practitioner or facility as determined by the Department for Medicaid Services through an administrative regulation promulgated under KRS Chapter 13A. A Medicaid managed care organization shall use the forms and guidelines established under KRS 304.17A-545(5) to credential a provider. For any provider who contracts with and is credentialed by a Medicaid managed care organization prior to enrollment, the cabinet shall complete the enrollment process and deny, or approve and issue a Provider Identification Number (PID) within fifteen (15) business days from the time all necessary completed enrollment forms have been submitted and all outstanding accounts receivable have been satisfied.

- (b) Within forty-five (45) days of receiving a correct and complete provider application, the Department for Medicaid Services shall complete the enrollment process by either denying or approving and issuing a Provider Identification Number (PID) for a behavioral health provider who provides substance use disorder services, unless the department notifies the provider that additional time is needed to render a decision for resolution of an issue or dispute.
 - (c) Within forty-five (45) days of receipt of a correct and complete application for credentialing by a behavioral health provider providing substance use disorder services, a Medicaid managed care organization shall complete its contracting and credentialing process, unless the Medicaid managed care organization notifies the provider that additional time is needed to render a decision. If additional time is needed, the Medicaid managed care organization shall not take any longer than ninety (90) days from receipt of the credentialing application to deny or approve and contract with the provider.
 - (d) A Medicaid managed care organization shall adjudicate any clean claims submitted for a substance use disorder service from an enrolled and credentialed behavioral health provider who provides substance use disorder services in accordance with KRS 304.17A-700 to 304.17A-730.
 - (e) The Department of Insurance may impose a civil penalty of one hundred dollars (\$100) per violation when a Medicaid managed care organization fails to comply with this section. Each day that a Medicaid managed care organization fails to pay a claim may count as a separate violation.
- (13) Dentists licensed under KRS Chapter 313 shall be excluded from the requirements of subsection (12) of this section. The Department for Medicaid Services shall develop a specific form and establish guidelines for assessing the credentials of dentists applying for participation in the Medical Assistance Program.

➔Section 5. KRS 95A.220 is amended to read as follows:

- (1) ***For the purposes of this section, "stress injury" means:***
 - (a) ***Post-traumatic stress injury;***
 - (b) ***Post-traumatic stress disorder;***
 - (c) ***Acute stress disorder; or***
 - (d) ***Other specified stress-related disorder, but shall not include complex post-traumatic stress disorder;***

as set out in the most recent edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.
- (2) There is established the "Firefighters Foundation Program Fund" consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge proceeds and earnings on the investments of those proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. The fund may also receive any other funds, gifts or grants made available to the state for distribution to local governments and volunteer fire departments in accordance with the provisions of KRS 95A.200 to 95A.300 and KRS 95A.262.
- ~~(3)~~(2) All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account. Beginning with the fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars (\$3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. On and after July 1, 1999, moneys in this account shall not lapse.
- ~~(4)~~(3) Moneys in the fund are hereby appropriated by the General Assembly for the purposes provided in KRS 95A.200 to 95A.300.
- ~~(5)~~(4) (a) A ~~post-traumatic~~ stress injury that arises solely from a legitimate personnel action such as transfer, promotion, demotion, or termination shall not be considered a compensable injury.

- (b) ~~Post traumatic stress injury and post traumatic stress disorder shall be defined as set out by the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.~~
- (e) ~~The firefighter shall be diagnosed, by a psychiatrist, psychologist, or professional counselor credentialed under [the provisions of] KRS 335.500 to 335.599, with a stress injury [post traumatic stress injury or post traumatic stress disorder] that has been caused by an event or an accumulation of events that have occurred in the course and scope of his or her [their] employment as a full-time [] career or volunteer firefighter, regardless of whether or not there is an initial physical injury. **The event or an accumulation of events that have occurred in the course and scope of employment as a career or volunteer firefighter shall extend from the firefighter's initial employment or service to the date of a diagnosis with the stress injury.**~~
- (c) ~~(d)~~ Once diagnosed, if a firefighter seeks mental health treatment, after in-network health insurance has been utilized, he or she may submit corresponding receipts for medical bills paid by the firefighter to the commission for reimbursement to the firefighter of out-of-pocket costs incurred from the funds specifically allocated in the commission's budget for firefighter mental health treatment, **if applicable**. The firefighter shall pay his or her out-of-pocket share for the mental health treatment before submitting for reimbursement.
- (d) ~~(e)~~ From the time a firefighter seeks mental health treatment, there shall **not** be a ~~maximum~~ limit ~~of twelve (12) months for~~ on the benefit described in paragraph (c) ~~(d)~~ of this subsection, **except that a lifetime cap on the benefits described in paragraph (c) of this subsection may be imposed.**

Signed by Governor April 6, 2023.

CHAPTER 185

(HB 21)

AN ACT relating to the Transportation Cabinet.

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

➔ Section 1. KRS 186.412 is amended to read as follows:

- (1) As used in this section, "applicant" means a person who is a citizen or permanent resident of the United States.
- (2) An applicant shall apply for an instruction permit or operator's license with the Transportation Cabinet, or through alternative technology. Except as provided in KRS 186.417, the application form shall require the applicant's:
 - (a) Full legal name and signature;
 - (b) Date of birth;
 - (c) Social Security number or a letter from the Social Security Administration declining to issue a Social Security number;
 - (d) Sex;
 - (e) Present Kentucky resident address, exclusive of a post office box address alone;
 - (f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;
 - (g) A brief physical description of the applicant;
 - (h) Proof of the applicant's Kentucky residency, including but not limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and
 - (i) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.
- (3) (a) **To satisfy the requirements of subsection (2)(e) and (h) of this section, an applicant seeking to obtain a renewal or duplicate operator's license may use a completed form attesting to the lack of an**

established and fixed nighttime residence of regular return as established in accordance with paragraph (b) of this subsection. The form developed under paragraph (b) of this subsection shall not be used by an applicant for an initial operator's license or instruction permit.

- (b) *The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to develop forms and procedures whereby an applicant for a renewal or duplicate operator's license under this section or KRS 186.4121, or an applicant for an initial, renewal, or duplicate personal identification card under Section 2 or 3 of this Act, who does not have an established and fixed nighttime residence of regular return may use as proof of residency, a form, attested to by a homeless shelter, health care facility, or social service agency currently providing the applicant treatment or services, that the applicant is a resident of Kentucky. An applicant who does not have an established and fixed nighttime residence of regular return shall not be issued a voluntary travel ID operator's license under this section or KRS 186.4121.***

- (4)** In addition to the information identified in subsection (2) of this section, a permanent resident shall present one (1) of the following documents issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services:

- (a) An I-551 card with a photograph of the applicant; or
- (b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until (Expiration Date). Employment authorized."

- ~~(5)~~~~(4)~~ Upon application for an operator's license under this section, the cabinet shall capture a photograph of the applicant in accordance with the requirements of KRS 186.4102(1).

- ~~(6)~~~~(5)~~ (a) Except as provided in paragraph (b) of this subsection, the cabinet shall electronically scan the documents required for application under this section and shall electronically retain the application, supporting documents, and the photograph of the applicant. Upon completion of any required examinations under KRS 186.480, the cabinet shall present the applicant with a temporary operator's license or instruction permit, which shall be valid for thirty (30) days until a permanent operator's license or instruction permit is mailed to the applicant by the Transportation Cabinet.
- (b) The cabinet shall only electronically scan the birth certificate of an individual applying for a voluntary travel ID instruction permit or operator's license. If the applicant is not seeking such a permit or license, the cabinet shall not electronically scan the applicant's birth certificate.
- (c) An applicant for an operator's license or instruction permit shall not be required to surrender the applicant's birth certificate for image capture, image storage, or image transmission to any entity, including the federal government, unless express consent is given by the applicant during the course of obtaining a voluntary travel ID license or permit.

- ~~(7)~~~~(6)~~ An applicant shall swear an oath to the cabinet as to the truthfulness of the statements contained in the form.

➔Section 2. KRS 186.4122 is amended to read as follows:

- (1) As used in this section, "applicant" means a person who is a citizen or permanent resident of the United States.
- (2) The Transportation Cabinet shall issue a personal identification card to an applicant who:
- (a) Is a Kentucky resident;
- (b) Applies in person to the cabinet or through alternative technology; and
- (c) Complies with the provisions of this section.
- (3) Upon application for a personal identification card under this section, the cabinet shall capture a photograph of the applicant in accordance with KRS 186.4102(1).
- (4) (a) Except as provided in paragraph (b) of this subsection, the cabinet shall electronically scan the documents required for application under this section and shall electronically retain the application, supporting documents, and the photograph of the applicant. The cabinet shall present the applicant with a temporary personal identification card, which shall be valid for thirty (30) days until a permanent personal identification card is mailed to the applicant by the Transportation Cabinet.

- (b) The cabinet shall only electronically scan the birth certificate of an individual applying for a voluntary travel ID personal identification card. If the applicant is not seeking such a document, the cabinet shall not electronically scan the applicant's birth certificate.
 - (c) An applicant for a personal identification card shall not be required to surrender the applicant's birth certificate for image capture, image storage, or image transmission to any entity, including the federal government, unless express consent is given by the applicant during the course of obtaining a voluntary travel ID personal identification card.
- (5) (a) An application for a personal identification card shall be accompanied by the same information as is required for an operator's license under KRS 186.412, except if an applicant does not have ***an established and fixed nighttime residence of regular return***~~[a fixed, permanent address]~~, the applicant may:
1. ***Until July 1, 2025***, use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the applicant treatment or services and attesting that the applicant is a resident of Kentucky; ***or***
 2. ***On or after July 1, 2025***, follow the procedures outlined in subsection (3) of Section 1 of this Act.
- (b) An applicant who does not have ***an established and fixed nighttime residence of regular return***~~[a fixed, permanent address]~~ shall not be issued a voluntary travel ID personal identification card.
- (c)~~(b)~~ ***An applicant for a personal identification card who is at least sixteen (16) years of age but less than eighteen (18) years of age shall not be required to obtain a signature of a parent or legal guardian on the application if the applicant has been verified as a homeless child or youth, as defined in 42 U.S.C. sec. 11434a(2), by at least one (1) of the following:***
1. ***A director or designee of a governmental or nonprofit agency that receives public or private funding to provide services to homeless people;***
 2. ***A local educational agency liaison for homeless children and youths designated pursuant to 42 U.S.C. sec. 11432(g)(1)(J)(ii), or a school social worker or school counselor;***
 3. ***The director or director's designee of a federal TRIO Program or a Gaining Early Awareness and Readiness for Undergraduate Program; or***
 4. ***A financial aid administrator for an institution of higher education.***
- (d) It shall be permissible for the application form for a personal identification card to include as an applicant's most current resident address a mailing address or an address provided on a voter registration card.
- (e)~~(c)~~ If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner, or possessor to use the address for purposes of obtaining the personal identification card.
- (6) (a) Every applicant for a personal identification card under this section shall swear an oath to the cabinet as to the truthfulness of the statements contained on the application form.
- (b) A personal identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.
- (7) A personal identification card issued under this section shall be valid for a period of eight (8) years from the date of issuance, except that if the personal identification card is issued to a person who does not have ***an established and fixed nighttime residence of regular return***~~[a fixed, permanent address]~~, then the personal identification card shall be valid for one (1) year from the date of issuance.
- (8) (a) An applicant may be issued a personal identification card if the applicant currently holds a valid Kentucky instruction permit or operator's license, except that a person shall not hold more than one (1) license or personal identification card that is a voluntary travel ID identity document which indicates that it meets the requirements for federal identification under Pub. L. No. 109-13, Title II, as referenced in KRS 186.4102(8).

- (b) If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a personal identification card. Subject to the limitations in paragraph (a) of this subsection, a personal identification card may be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.

➔Section 3. KRS 186.4123 is amended to read as follows:

- (1) As used in this section, "applicant" means a person who is not a United States citizen and has not been granted status as a permanent resident of the United States.
- (2) The Transportation Cabinet shall issue a personal identification card to an applicant who:
 - (a) Is a Kentucky resident;
 - (b) Applies in person to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office; and
 - (c) Complies with the provisions of this section.
- (3) Upon application for a personal identification card under this section, the cabinet shall capture a photograph of the applicant in accordance with KRS 186.4102(1).
- (4) The cabinet shall electronically scan the documents required for application under this section, supporting documents, and the photograph of the applicant into the cabinet's database.
- (5)
 - (a) An application for a personal identification card shall be accompanied by the same information as is required for an operator's license under KRS 186.412, along with other documents required under this section, except if an applicant does not have *an established and fixed nighttime residence of regular return*~~[a fixed, permanent address]~~, the applicant may:
 1. *Until July 1, 2025*, use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the applicant treatment or services and attesting that the applicant is a resident of Kentucky; *or*
 2. *On or after July 1, 2025, follow the procedures outlined in subsection (3) of Section 1 of this Act.*
 - (b) An applicant who does not have *an established and fixed nighttime residence of regular return*~~[a fixed, permanent address]~~ shall not be issued a voluntary travel ID personal identification card.
 - ~~(c)~~~~(b)~~ It shall be permissible for the application form for a personal identification card to include as an applicant's most current resident address a mailing address or an address provided on a voter registration card.
 - ~~(d)~~~~(e)~~ If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner, or possessor to use the address for purposes of obtaining the personal identification card.
- (6) The application form under this section shall be accompanied by the applicant's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, authorizing the applicant to be in the United States. The Transportation Cabinet shall verify the information submitted under this subsection through the Systematic Alien Verification for Entitlements (SAVE) program.
- (7) The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the applicant's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the applicant's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.
- (8)
 - (a) The Transportation Cabinet shall verify and validate the immigration status and personal identity of an applicant under this section through federal government systems and databases.
 - (b) If an applicant's identity and immigration status is validated, the cabinet shall capture a photograph of the applicant, and scan the required documents into the cabinet's database, and shall present the

applicant with a temporary personal identification card, which shall be valid for thirty (30) days until a permanent personal identification card is mailed to the applicant.

- (c) An applicant under this section shall only be issued a standard personal identification card.
- (9) (a) An applicant shall apply to renew a personal identification card, or obtain a duplicate personal identification card, at the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
- (b) If a person has any type of change in his or her immigration status, the person shall apply to update with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office within ten (10) days.
- (10) (a) Every applicant for a personal identification card under this section shall swear an oath to the Transportation Cabinet as to the truthfulness of the statements contained on the application form.
- (b) A personal identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.
- (11) (a) Except as provided in paragraph (b) of this subsection, an initial or renewal personal identification card issued to an applicant who is not a special status individual shall be valid for a period equal to the length of time the applicant's documentation from the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, is valid, or eight (8) years, whichever time period is shorter.
- (b) An initial or renewal personal identification card shall be valid for a period of one (1) year if:
 1. The applicant is not a special status individual and the applicant's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular personal identification card; or
 2. The personal identification card is issued to a person who does not have ***an established and fixed nighttime residence of regular return***~~[a fixed, permanent address]~~.

➔Section 4. KRS 186.531 is amended to read as follows:

- (1) As used in this section:
 - (a) ~~["AOC Fund" means the circuit court clerk salary account created in KRS 27A.052;~~
 - ~~(b)~~ "GF" means the general fund;
 - ~~(b)~~~~(c)~~ "IP" means instruction permit;
 - ~~(c)~~~~(d)~~ "License Fund" or "LF" means the KYTC photo license account created in KRS 174.056;
 - ~~(d)~~~~(e)~~ "MC" means motorcycle;
 - ~~(e)~~~~(f)~~ "MC Fund" or "MCF" means the motorcycle safety education program fund established in KRS 176.5065;
 - ~~(f)~~~~(g)~~ "OL" means operator's license; and
 - ~~(g)~~~~(h)~~ "PIDC" means personal identification card.
- (2) The fees imposed for voluntary travel ID operator's licenses, instruction permits, and personal identification cards shall be as follows. The fees received shall be distributed as shown in the table. The fees shown, unless otherwise noted, are for an eight (8) year period:

Card Type	Fee	LF	GF	MCF
OL (initial/renewal)	\$48	\$48	\$0	\$0
OL (Under 21) (Up to 4 years)	\$18	\$18	\$0	\$0
Any OL, MC, or combination (duplicate/corrected)	\$15	\$13.25	\$1.75	\$0
Motor vehicle IP (3 years)	\$18	\$16	\$2	\$0
Motorcycle IP (1 year)	¶ \$18	\$13	\$1	\$4

Motorcycle OL (initial/renewal)	\$48	\$38	\$0	\$10
Combination vehicle/MC OL (initial/renewal)	\$58	\$48	\$0	\$10
PIDC (initial/renewal)	\$28	\$25	\$3	\$0
PIDC (duplicate/corrected)	\$15	\$13.50	\$1.50	\$0

(3) Except as provided in subsection (10)[(11)] of this section, the fees imposed for standard operator's licenses, instruction permits, and personal identification cards shall be as follows[-:

(a) ~~If the identity document is issued through a circuit clerk's office, the fees received shall be distributed as shown in the table. The fees shown, unless otherwise noted, are for an eight (8) year period:~~

Card Type	Fee	Road Fund	License Fund	AOC Fund	GF	MC Fund
OL (initial/renewal)	\$43	\$28	\$7	\$8	\$0	\$0
OL (Under 21) (Up to 4 years)	\$15	\$7.50	\$4	\$3.50	\$0	\$0
Any OL, MC OL or combination (duplicate /corrected)	\$15	\$5.25	\$4	\$4	\$1.75	\$0
Motor vehicle IP (3 years)	\$15	\$5	\$4	\$4	\$2	\$0
Motorcycle IP (1 year)	\$15	\$5	\$4	\$1	\$1	\$4
Motorcycle OL (initial/renewal)	\$43	\$17.50	\$8	\$7.50	\$0	\$10
Combination vehicle/MC OL (initial/renewal)	\$53	\$25	\$7	\$11	\$0	\$10
PIDC (initial/renewal)	\$23	\$8	\$8	\$4	\$3	\$0
PIDC (duplicate/corrected)	\$15	\$6	\$4	\$3.50	\$1.50	\$0
PIDC (no fixed address) KRS 186.4122(5) and 186.4123(5)	\$10	\$0	\$5	\$5	\$0	\$0

(b) ~~If the identity document is issued through a Transportation Cabinet office, the fees received shall be distributed as shown in the table]. The fees shown, unless otherwise noted, are for an eight (8) year period:~~

Card Type	Fee	LF	GF	MCF
OL(initial/renewal)	\$43	\$43	\$0	\$0

OL (Under 21) (Up to 4 years)	\$15	\$15	\$0	\$0
Any OL, MC, or combination (duplicate/corrected)	\$15	\$13.25	\$1.75	\$0
Motor vehicle IP (3 years)	\$15	\$13	\$2	\$0
Motorcycle IP (1 year)	¥ \$15	\$10	\$1	\$4
Motorcycle OL (initial/renewal)	\$43	\$33	\$0	\$10
Combination vehicle/MC OL (initial/renewal)	\$53	\$43	\$0	\$10
PIDC (initial/renewal)	\$23	\$20	\$3	\$0
PIDC (duplicate/corrected)	\$15	\$13.50	\$1.50	\$0
PIDC (no fixed address) under KRS 186.4122(5)/186.4123(5) (<i>Initial, duplicate, or corrected</i>)	_____ \$0	\$5	\$5	\$0
	_____ \$0			_____ \$10

(4) ~~[The fee for a second or subsequent duplicate personal identification card for a person who does not have a fixed, permanent address, as allowed under KRS 186.4122(5) and 186.4123(5), shall be the same as for a duplicate regular personal identification card.]~~

~~(5)~~ The fee for a four (4) year original or renewal license issued pursuant to KRS 186.4101 shall be fifty percent (50%) of the amount shown in subsections (2) and (3) of this section. The distribution of fees shown in subsections (2) and (3) of this section shall also be reduced by fifty percent (50%) for licenses that are issued for four (4) years.

~~(5)~~~~(6)~~ Any fee for any identity document applied for using alternative technology under KRS 186.410 and 186.4122 shall be distributed in the same manner as a document applied for in person with the cabinet.

~~(6)~~~~(7)~~ (a) An applicant for an original or renewal operator's license, permit, commercial driver's license, motorcycle operator's license, or personal identification card shall be requested by the cabinet to make a donation to promote an organ donor program.

(b) The donation under this subsection shall be added to the regular fee for an original or renewal motor vehicle operator's license, permit, commercial driver's license, motorcycle operator's license, or personal identification card. One (1) donation may be made per issuance or renewal of a license or any combination thereof.

(c) The fee shall be paid to the cabinet and shall be forwarded by the cabinet on a monthly basis to the Kentucky Circuit Court Clerks' Trust for Life, and such moneys are hereby appropriated to be used exclusively for the purpose of promoting an organ donor program. A donation under this subsection shall be voluntary and may be refused by the applicant at the time of issuance or renewal.

~~(7)~~~~(8)~~ In addition to the fees outlined in this section, the following individuals, upon application for an initial or renewal operator's license, instruction permit, or personal identification card, shall pay an additional application fee of thirty dollars (\$30), which shall be deposited in the photo license account:

(a) An applicant who is not a United States citizen or permanent resident and who applies under KRS 186.4121 or 186.4123; or

(b) An applicant who is applying for a instruction permit, operator's license, or personal identification card without a photo under KRS 186.4102(9).

~~(8)~~~~(9)~~ (a) Except for individuals exempted under paragraph (c) of this subsection, an applicant for relicensing after revocation or suspension shall pay a reinstatement fee of forty dollars (\$40).

(b) The reinstatement fee under this subsection shall be distributed by the State Treasurer as follows:

1. Thirty-five dollars (\$35) shall be deposited into the photo license account; and

2. Five dollars (\$5) shall be deposited into a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers.
- (c) This subsection shall not apply to:
1. Any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individual are reinstated; or
 2. A student who has had his or her license revoked pursuant to KRS 159.051.
- ~~(9)~~~~(10)~~ As payment for any fee identified in this section, the cabinet:
- (a) Shall accept cash and personal checks;~~and~~
 - (b) May accept other methods of payment in accordance with KRS 45.345; *and*
 - (c) ***May enter into billing agreements with homeless shelters, health care facilities, or social service agencies that serve individuals without an established and fixed nighttime residence of regular return.***
- ~~(10)~~~~(11)~~ There shall be no fee assessed for the initial, renewal, or duplicate standard personal identification card to an individual, if the individual:
- (a) Does not possess a valid operator's license or a commercial driver's license; and
 - (b) Is at least eighteen (18) years of age on or before the next regular election.
- ➔Section 5. KRS 186.162 is amended to read as follows:
- (1) As used in this section and in KRS 186.043, 186.164, 186.166, 186.1722, and 186.174:
- (a) "Special license plate" means a unique license plate issued under this chapter to a group or organization that readily identifies the operator of the motor vehicle or motorcycle bearing the plate as a member of a group or organization, or a supporter of the work, goals, or mission of a group or organization. The term shall not include regular license plates issued under KRS 186.240;
 - (b) "Street rod" means a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949;
 - (c) "SF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by the Transportation Cabinet;
 - (d) "CF" means the county clerk's fee for issuing a motor vehicle registration as established under KRS 186.040(1). If a CF amount is charged for a license plate listed in this section, the applicant for that plate shall also pay the fees identified in KRS 186.040(6). If a CF amount is not charged, the applicant shall not be required to pay those fees; and
 - (e) "EF" means the portion of an initial or renewal fee to obtain a special license plate that is mandated by this chapter to be dedicated for use by a particular group or organization.
- (2) The initial purchase fee and renewal fee for a special license plate created under this chapter shall be as established in this subsection and includes the name of group or organization and the total initial and renewal fee required for the plate. The amount in parentheses indicates how the total fee is required to be divided:
- (a) Disabled veterans who receive assistance to purchase a vehicle from the United States Department of Veterans' Affairs, veterans declared by the United States Department of Veterans' Affairs to be one hundred percent (100%) service-connected disabled, and recipients of the Congressional Medal of Honor:
 1. Initial Fee: \$0 (\$0 SF/\$0 CF/\$0 EF).
 2. Renewal Fee: \$0 (\$0 SF/\$0 CF/\$0 EF).
 - (b) Former prisoners of war and survivors of Pearl Harbor:
 1. Initial Fee: \$23 (\$12 SF/\$6 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
 2. Renewal Fee: \$6 (\$0 SF/\$6 CF/\$0 EF).

- (c) Members of the Kentucky National Guard and recipients of the Purple Heart:
1. Initial Fee: \$23 (\$12 SF/\$6 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
 2. Renewal Fee: \$11 (\$0 SF/\$6 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (d) Members of the Civil Air Patrol; active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; Merchant Marines who served between December 7, 1941, and August 15, 1945; recipients of the Silver Star Medal, the Distinguished Flying Cross, the Air Medal, the Combat Action Badge, the Combat Infantry Badge, or the Bronze Star Medal; persons who wish to receive Gold Star Mothers, Gold Star Fathers, or Gold Star Spouses license plates beyond the two (2) exempted from fees under KRS 186.041(6); individuals eligible for a special military service academy license plate under KRS 186.041(8); individuals eligible for a special military unit license plate under KRS 186.163; and disabled veterans who have been declared to be between fifty percent (50%) and ninety-nine percent (99%) service-connected disabled by the United States Department of Veterans' Affairs:
1. Initial Fee: \$23 (\$12 SF/\$6 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
 2. Renewal Fee: \$23 (\$12 SF/\$6 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (e) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross:
1. Initial Fee: \$6 (\$0 SF/\$6 CF/\$0 EF).
 2. Renewal Fee: \$6 (\$0 SF/\$6 CF/\$0 EF).
- (f) Disabled license plates:
1. Initial Fee: \$18 (\$12 SF/\$6 CF/\$0 EF).
 2. Renewal Fee: \$18 (\$12 SF/\$6 CF/\$0 EF).
- (g) Historic vehicles:
1. Initial Fee for two plates: \$56 (\$50 SF/\$6 CF/\$0 EF).
 2. Renewal Fee: Do not renew annually.
- (h) Members of Congress:
1. Initial Fee: \$43 (\$37 SF/\$6 CF/\$0 EF).
 2. Renewal Fee: \$23 (\$12 SF/\$6 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (i) Firefighters:
1. Initial Fee: \$28 (\$12 SF/\$6 CF/\$10 EF to the Kentucky Firefighters Association).
 2. Renewal Fee: \$28 (\$12 SF/\$6 CF/\$10 EF to the Kentucky Firefighters Association).
- (j) Emergency management:
1. Initial Fee: \$31 (\$25 SF/\$6 CF/\$0 EF).
 2. Renewal Fee: \$18 (\$12 SF/\$6 CF/\$0 EF).
- (k) Fraternal Order of Police:
1. Initial Fee: \$41 (\$25 SF/\$6 CF/\$10 EF to the Kentucky FOP Death Benefit Fund).
 2. Renewal Fee: \$28 (\$12 SF/\$6 CF/\$10 EF to the Kentucky FOP Death Benefit Fund).

- (l) Law Enforcement Memorial:
1. Initial Fee: \$41 (\$25 SF/\$6 CF/\$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).
 2. Renewal Fee: \$28 (\$12 SF/\$6 CF/\$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).
- (m) Personalized plates:
1. Initial Fee: \$43 (\$37 SF/\$6 CF/\$0 EF).
 2. Renewal Fee: \$43 (\$37 SF/\$6 CF/\$0 EF).
- (n) Street rods:
1. Initial Fee: \$43 (\$37 SF/\$6 CF/\$0 EF).
 2. Renewal Fee: \$18 (\$12 SF/\$6 CF/\$0 EF).
- (o) Nature plates:
1. Initial Fee: \$28 (\$12 SF/\$6 CF/\$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).
 2. Renewal Fee: \$28 (\$12 SF/\$6 CF/\$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).
- (p) Amateur radio:
1. Initial Fee: \$43 (\$37 SF/\$6 CF/\$0 EF).
 2. Renewal Fee: \$18 (\$12 SF/\$6 CF/\$0 EF).
- (q) Kentucky General Assembly:
1. Initial Fee: \$43 (\$37 SF/\$6 CF/\$0 EF).
 2. Renewal Fee: \$23 (\$12 SF/\$6 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (r) Kentucky Court of Justice:
1. Initial Fee: \$43 (\$37 SF/\$6 CF/\$0 EF).
 2. Renewal Fee: \$11 (\$0 SF/\$6 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (s) Masons:
1. Initial Fee: \$41 (\$25 SF/\$6 CF/\$10 EF to the Masonic Homes of Kentucky).
 2. Renewal Fee: \$28 (\$12 SF/\$6 CF/\$10 EF to the Masonic Homes of Kentucky).
- (t) Collegiate plates:
1. Initial Fee: \$53 (\$37 SF/\$6 CF/\$10 EF to the general scholarship fund of the university whose name will be borne on the plate).
 2. Renewal Fee: \$28 (\$12 SF/\$6 CF/\$10 EF to the general scholarship fund of the university whose name will be borne on the plate).
- (u) Independent Colleges:
1. Initial Fee: \$41 (\$25 SF/\$6 CF/\$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).
 2. Renewal Fee: \$28 (\$12 SF/\$6 CF/\$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).
- (v) Child Victims:

1. Initial Fee: \$41 (\$25 SF/\$6 CF/\$10 EF to the child victims' trust fund established under KRS 41.400).
 2. Renewal Fee: \$23 (\$12 SF/\$6 CF/\$5 EF to the child victims' trust fund established under KRS 41.400).
- (w) Kentucky Horse Council:
1. Initial Fee: \$41 (\$25 SF/\$6 CF/\$10 EF to the Kentucky Horse Council).
 2. Renewal Fee: \$23 (\$12 SF/\$6 CF/\$5 EF to the Kentucky Horse Council).
- (x) Ducks Unlimited:
1. Initial Fee: \$41 (\$25 SF/\$6 CF/\$10 EF to Kentucky Ducks Unlimited).
 2. Renewal Fee: \$28 (\$12 SF/\$6 CF/\$10 EF to Kentucky Ducks Unlimited).
- (y) Spay neuter:
1. Initial Fee: \$28 (\$12 SF/\$6 CF/\$10 EF to the animal control and care fund established under KRS 258.119).
 2. Renewal Fee: \$23 (\$12 SF/\$6 CF/\$5 EF to the animal control and care fund established under KRS 258.119).
- (z) Gold Star Mothers, Gold Star Fathers, or Gold Star Spouses:
1. Initial Fee: \$0 (\$0 SF/\$0 CF/ \$0 EF).
 2. Renewal Fee: \$0 (\$0 SF/\$0 CF/ \$0 EF).
 3. A person may receive a maximum of two (2) plates under this paragraph free of charge and may purchase additional plates for fees as established in subsection (2)(d) of this section.
- (aa) I Support Veterans:
1. Initial Fee: \$28 (\$12 SF/\$6 CF/\$10 EF to the Kentucky Department of Veterans' Affairs).
 2. Renewal Fee: \$23 (\$12 SF/\$6 CF/\$5 EF to the Kentucky Department of Veterans' Affairs).
- (ab) Gold Star Siblings, Gold Star Sons, or Gold Star Daughters:
1. Initial Fee: \$28 (\$12 SF/\$6 CF/\$10 EF to the veterans' program trust fund established under KRS 40.460).
 2. Renewal Fee: \$23 (\$12 SF/\$6 CF/\$5 EF to the veterans' program trust fund established under KRS 40.460).
- (ac) POW/MIA Awareness:
1. Initial Fee: \$41 (\$25 SF/\$6 CF/\$10 EF to the veterans' program trust fund established under KRS 40.460).
 2. Renewal Fee: \$28 (\$12 SF/\$6 CF/\$10 EF to the veterans' program trust fund established under KRS 40.460).
- (ad) Special license plates established under KRS 186.164:
1. Initial Fee: \$41 (\$25 SF/\$6 CF/\$10 EF).
 2. Renewal Fee: \$41 (\$25 SF/\$6 CF/\$10 EF).
- (3) Any special license plate may be combined with a personalized license plate for a twenty-five dollar (\$25) state fee in addition to all other fees for the particular special license plate established in this section and in KRS 186.164(3). The twenty-five dollar (\$25) fee required under this subsection shall be divided between the cabinet and the county clerk of the county where the applicant is applying for the license plate with the cabinet receiving twenty dollars (\$20) and the county clerk receiving five dollars (\$5).

- (4) (a) A sponsoring organization of any special license plate issued under this section or any special license plate established under the provisions of KRS 186.164 may petition the cabinet for the production of that special license plate for motorcycles.
- (b) *The cabinet shall make all of the special military license plates in this section available for motorcycles owned or leased by eligible individuals.*
- (c) Owners and lessees of motorcycles registered under KRS 186.050(2) may be eligible to receive special license plates approved by the cabinet under *paragraphs (a) and (b)* ~~paragraph (a)~~ of this subsection. Applicants for a special license plate for a motorcycle shall be required to pay the fee for a special plate as prescribed in this section or in KRS 186.164. The fee paid for the special plate for a motorcycle shall be in lieu of the registration fee required under KRS 186.050(2).

➔Section 6. Section 1 of this Act takes effect July 1, 2025.

➔Section 7. Section 5 of this Act takes effect January 1, 2024.

Signed by Governor April 7, 2023.

CHAPTER 186

(HB 9)

AN ACT relating to economic relief for local communities of the Commonwealth and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly finds and declares that the purpose of Sections 1 to 9 of this Act is to support the priority communities in the Commonwealth designated by the Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization established by Presidential Executive Order 14008, issued on January 27, 2021.*
- (2) *In enacting Sections 1 to 9 of this Act, it is the intention of the General Assembly to create and establish the Government Resources Accelerating Needed Transformation Program within the Department for Local Government to enable priority communities to access federal funding for projects that are in the public interest and for a public purpose.*
- (3) *The General Assembly further finds and declares that priority communities would benefit from the assistance of their local universities and encourages those entities to assist their priority communities in applying for Government Resources Accelerating Needed Transformation Program funds.*

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

As used in Sections 1 to 9 of this Act:

- (1) *"Department" means the Department for Local Government;*
- (2) *"Eligible grant recipient" means a grant applicant that is a public agency as defined in KRS 61.805 or nonprofit entity engaged in public benefit improvements to priority communities;*
- (3) *"Eligible project" means a public benefit project in a priority community or benefiting a priority community with available matching funds that satisfies the evaluation criteria in Section 6 of this Act and that is initiated on:*
- (a) *Publicly owned property;*
- (b) *Property to be acquired, which comes with either a:*
1. *Legally binding letter of intent or option for the sale to an eligible grant recipient; or*
 2. *Sale agreement for the sale to an eligible grant recipient; or*

- (c) *Private property on which a project is located that is in the public interest and for a public purpose and that benefits a priority community;*
- (4) *"Eligible use" means the authorized purpose for which an awarded grant may be used depending on the source of funds from the Commonwealth. "Eligible use" may include but is not limited to any of the categories in Section 6 of this Act;*
- (5) *"Interagency Working Group" means the Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization established by Presidential Executive Order 14008, issued on January 27, 2021;*
- (6) *"Priority community" means the areas impacted by concentrated, direct coal-related job losses from mine and power plant closures in recent years as designated by the Interagency Working Group; and*
- (7) *"Regional project" means an eligible project that is proposed by eligible grant recipients residing in different counties in this Commonwealth who submit a single grant application.*

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

- (1) *The Government Resources Accelerating Needed Transformation Program is hereby established under the department. The department's administration of the program includes but is not limited to the following:*
 - (a) *Creating and making available a standardized grant application and a regional grant application;*
 - (b) *Developing a standardized scoring system pursuant to Section 7 of this Act;*
 - (c) *Reviewing and processing the applications and proposals submitted by the proposed grant recipients;*
 - (d) *Verifying and determining whether a grant applicant is an eligible grant recipient and seeking a grant for an eligible project;*
 - (e) *Evaluating the project proposed by the grant application in accordance with the evaluation criteria set forth in Section 6 of this Act;*
 - (f) *Scoring each grant application project pursuant to the scoring system described in Section 7 of this Act;*
 - (g) *Ranking each grant application:*
 - 1. *To prioritize the greatest return on investment and relative positive impact on the priority community; and*
 - 2. *Based on the project evaluation and the project score described in Sections 6 and 7 of this Act;*
 - (h) *Compiling a list of proposed grant recipients whose eligible project demonstrates a high level of investment potential if a grant is made, as revealed by the evaluation, scoring, and ranking process described in this section and Sections 6 and 7 of this Act;*
 - (i) *Providing detailed feedback to the grant applicants after the project evaluation and project score are completed;*
 - (j) *Awarding matching grants to selected eligible grant recipients; and*
 - (k) *Compiling for the annual report submitted under Section 8 of this Act the following information about the project:*
 - 1. *A list of all program applicants;*
 - 2. *The identity of applicants who were not selected for recommendation;*
 - 3. *Trends found in feedback given to applicants who were not selected for recommendation;*
 - 4. *Eligible uses of the projects cited in the grant applications; and*
 - 5. *Any other information requested by the department.*
- (2) *The department shall determine the terms, conditions, and requirements of application for grant funds awarded from the Government Resources Accelerating Needed Transformation Program fund. The department may establish procedures and standards for the review and approval of eligible grant awards through the promulgation of administrative regulations in accordance with KRS Chapter 13A.*

- (3) *The commissioner of the department shall have the authority to hire staff, contract for services, expend funds, and operate the normal business activities of the Government Resources Accelerating Needed Transformation Program.*
- (4) *The Government Resources Accelerating Needed Transformation Program shall sunset on December 31, 2026, unless authorized by the General Assembly to continue its work for a specified period of time.*
- (5) *The Kentucky Council of Area Development Districts and local area development districts shall assist priority communities in identifying available grant opportunities and preparing Government Resources Accelerating Needed Transformation Program applications. Nothing in this subsection prevents any public agency or nonprofit entity from assisting priority communities in identifying and preparing Government Resources Accelerating Needed Transformation Program applications.*

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

- (1) *To participate in the Government Resources Accelerating Needed Transformation Program, grant applicants shall submit either a standardized or a regional application to the department.*
- (2) *If a grant application is selected as an eligible grant recipient approved under Section 6 of this Act, it shall comply with any grant agreement and reporting requirements deemed necessary by the department to verify that the awarded grant goes toward an eligible use.*
- (3) *If the selected grant recipient fails to comply with subsection (2) of this section or uses the awarded grant money for any purpose other than an eligible use, the selected eligible grant recipient shall forfeit and be liable to the department for the full award amount.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby established in the State Treasury a trust and agency account to be known as the Government Resources Accelerating Needed Transformation Program fund. The fund shall consist of moneys received from state appropriations, gifts, grants, and federal funds.*
- (2) *The fund shall be administered and maintained by the department.*
- (3) *Amounts deposited in the fund shall be used for:*
 - (a) *Awarding matching fund grants to applicants of the Government Resources Accelerating Needed Transformation Program upon notification of award of the federal grant requiring matching funds; and*
 - (b) *Administration of the program.*
- (4) *Notwithstanding KRS 45.229, moneys in the account not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.*
- (5) *Any interest earnings of the fund shall become a part of the fund and shall not lapse.*
- (6) *Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.*
- (7) *Any amounts obligated under subsection (3)(a) of this section shall be canceled upon denial of the federal award.*
- (8) *By December 1, 2023, and annually thereafter until December 1, 2026, the department shall prepare an annual report detailing the expenditures for the administration of the program from the fund, which shall be included in the annual report submitted under Section 8 of this Act.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

- (1) *The department shall identify and certify the locations for grant funding assistance by utilizing the designation of priority communities established by the Interagency Working Group. The department shall not approve a project unless it finds that the project is in the public interest and the grant funds will be used for a public purpose. For purposes of this subsection, projects that are in the public interest and for a public purpose can provide private benefit, if the department finds the following:*
 - (a)
 1. *The project will enhance a priority community or region;*
 2. *The granting entity for which the department's matching grant is being used requires a public purpose for grant eligibility; and*

3. *The department in its judgment concludes the proposal will enhance the quality of life or services in a priority community or region; and*
- (b) *A public purpose includes but is not limited to projects that:*
1. *Enhance economic vitality, including revitalization of structures that have a public purpose or benefit;*
 2. *Promote or develop an artistic or philanthropic purpose;*
 3. *Improve traditional infrastructure, such as water and wastewater treatment facilities, transmission lines, transportation facilities, and flood and wastewater management;*
 4. *Create or enhance telecommunications infrastructure, including cellular towers, fiber optic expansion, and technology infrastructure;*
 5. *Promote agricultural activities and development;*
 6. *Enhance development of previously mined areas or areas previously used by the coal industry and other industrial activities into uses that diversify the local economy;*
 7. *Create or expand recreational facilities, such as walking, hiking, all-terrain vehicle, bike trails, picnic facilities, restrooms, boat docking and fishing piers, and athletic facilities;*
 8. *Acquire private property that promotes local economic vitality and housing development and enhancement;*
 9. *Preserve or enhance buildings that are of local historic or economic interest;*
 10. *Restore or create retail facilities, including related service, parking, and transportation facilities, to revitalize decaying downtown areas;*
 11. *Construct or expand other facilities that promote or enhance economic development or tourism opportunities, thereby promoting the general welfare of local residents;*
 12. *Provide facilities and activities for local residences that enhance quality of life, including but not limited to childcare access and public transportation;*
 13. *Provide vocational and entrepreneurial training for displaced miners and other persons that have lost jobs or have been unable to find employment or business opportunities in the region;*
 14. *Invest in priority communities housing stock removal and remediation to facilitate community preservation and aesthetics; or*
 15. *Create drug and substance abuse rehabilitation programs and facilities.*
- (2) *The department shall evaluate each applicant's eligible project according to the criteria described in this section and Section 7 of this Act for the purpose of compiling a recommendation and score for the eligible project pursuant to Section 7 of this Act.*
- (3) *As part of the evaluation criteria of this section, the department shall consider the following:*
- (a) *Applicant's eligibility when evaluated against the requirements of the federal grant;*
 - (b) *Application completeness when evaluated against the requirements of the grant;*
 - (c) *Application content when evaluated against the federal grant program's publicly available scoring rubric or evaluation criteria, if any;*
 - (d) *Evidence that the project will provide a direct and public benefit to one (1) or more of the priority communities;*
 - (e) *Evidence of community support for the project;*
 - (f) *Likelihood that the applicant can successfully implement the grant-funded project;*
 - (g) *Likelihood that the applicant can successfully manage the federal grant's administration requirements; and*
 - (h) *Overall positive impact for the surrounding community as evidenced by clear and feasible projected outcomes of the grant-funded project.*

- (4) *If a grant applicant is selected as an eligible grant recipient approved under the Government Resources Accelerating Needed Transformation Program, it shall comply with any incentive agreements and reporting requirements deemed necessary by the department to verify that the awarded grant shall go toward an eligible use.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

- (1) *In the administration of the Government Resources Accelerating Needed Transformation Program, the department shall develop a scoring system for the project proposed by each grant applicant based on the total projected return on investment and the relative positive impact in the priority community.*
- (2) *The scoring system shall include a:*
- (a) *Score in each category as specified in subsection (3) of this section; and*
 - (b) *Total weighted score, which is the average of the scores in each category.*
- (3) *The scoring categories shall include but are not limited to:*
- (a) *Projected return on investment the project will yield, which includes an assessment of the:*
 1. *Likelihood of project completion both with the department's funding and without;*
 2. *Projected gross economic impact of the proposed project on the priority community;*
 3. *Projected number of jobs created by the proposed project and subsequent impact on the priority community; and*
 4. *A determination of the cost of the project based on the cost expended by the department if it awards the requested grant amount to the applicant; and*
 - (b) *Relative positive impact the project will have on the surrounding community.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

By December 1, 2023, and annually thereafter until December 1, 2026, the Department for Local Government shall prepare an annual report of the Government Resources Accelerating Needed Transformation Program to be submitted to the Governor and the Interim Joint Committee on Economic Development and Workforce Investment and make it available on the Department for Local Government's website. The annual report shall include but not be limited to the following:

- (1) *A summary of grant applications received and relevant statistics relating to actions taken by the department and grants awarded, including the applicant, award amount, and the purpose of the funding;*
- (2) *The detailed report of expenditures for the administration of the program prepared under subsection (8) of Section 5 of this Act;*
- (3) *The current balance of the Government Resources Accelerating Needed Transformation Program fund;*
- (4) *Recommendations regarding appropriations to the Government Resources Accelerating Needed Transformation Program fund for the upcoming fiscal year; and*
- (5) *Recommendations for legislation or policy actions needed to facilitate greater receipt of grant funding to priority communities.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

Sections 1 to 9 of this Act shall be known as the Government Resources Accelerating Needed Transformation Act.

➔Section 10. There is hereby appropriated General Fund moneys in the amount of \$2,000,000 in fiscal year 2023-2024 to the Government Resources Accelerating Needed Transformation Program fund created in Section 5 of this Act for the administration of the program in accordance with Sections 1 to 9 of this Act.

Signed by Governor April 7, 2023.

(HB 125)

AN ACT relating to public health.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) *The Department for Aging and Independent Living shall collaborate with the Department for Public Health and the Alzheimer's Association of Greater Kentucky and Southern Indiana to update and incorporate into the materials the Department for Aging and Independent Living publishes and distributes to the public, the following information:*
 - (a) *To aid people's understanding and awareness of Alzheimer's disease and other dementias, including links to chronic conditions such as vascular disease, diabetes, and smoking;*
 - (b) *On early signs of Alzheimer's disease and other dementias that should be discussed with healthcare professionals; and*
 - (c) *On steps that can be taken to reduce the risk of cognitive decline, particularly among persons in communities who are at greater risk of developing Alzheimer's disease and other types of dementia.*
- (2) *The Department for Aging and Independent Living shall publish the materials from subsection (1) of this section on its website and distribute the materials to all sixty-one (61) local health departments in Kentucky by:*
 - (a) *Digital formats;*
 - (b) *Physical copies of campaign materials; or*
 - (c) *In conjunction with educational programming.*

Signed by Governor April 7, 2023.

CHAPTER 188**(HB 29)**

AN ACT relating to veteran cemeteries.

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

➔Section 1. KRS 40.315 is amended to read as follows:

- (1) The Department of Veterans' Affairs shall establish and maintain state veterans' cemeteries in the Commonwealth for the purpose of providing for the interment of ~~[Kentucky]~~ veterans of the United States Armed Forces and for their next of kin, as determined by the department.
- (2) The Kentucky state veterans' cemeteries shall be under the administrative authority and control of the Department of Veterans' Affairs. The Department of Veterans' Affairs may promulgate administrative regulations necessary to operate the cemeteries in compliance with applicable state and federal statutes and regulations.
- (3) The Department of Veterans' Affairs is authorized to seek federal and private funding for the construction, renovation, and operation of Kentucky state veterans' cemeteries.

Signed by Governor April 7, 2023.

CHAPTER 189**(SB 52)**

AN ACT relating to the collection of fees in a county containing a consolidated local government.

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

➔Section 1. KRS 64.012 is amended to read as follows:

(1) The county clerk shall receive for the following services the following fees:

(a) 1. Recording and indexing of a:

- a. Deed of trust or assignment for the benefit of creditors;
- b. Deed;
- c. Deed of assignment;
- d. File-stamped copy of documents set forth in KRS 14A.2-040(1) or (2) that have been filed first with the Secretary of State;
- e. Real estate option;
- f. Power of attorney;
- g. Revocation of power of attorney;
- h. Lease which is recordable by law;
- i. Deed of release of a mortgage or lien under KRS 382.360;
- j. United States lien;
- k. Release of a United States lien;
- l. Release of any recorded encumbrance other than state liens;
- m. Lis pendens notice concerning proceedings in bankruptcy;
- n. Lis pendens notice;
- o. Mechanic's and artisan's lien under KRS Chapter 376;
- p. Assumed name;
- q. Notice of lien issued by the Internal Revenue Service;
- r. Notice of lien discharge issued by the Internal Revenue Service;
- s. Original, assignment, amendment, or continuation financing statement;
- t. Making a record for the establishment of a city, recording the plan or plat thereof, and all other service incident;
- u. Survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city;
- v. Recording with statutory authority for which no specific fee is set, except a military discharge;
- w. Will or other probate document pursuant to KRS Chapter 392 or 394;
- x. Court ordered name change pursuant to KRS Chapter 401;
- y. Land use restriction according to KRS 100.3681; and
- z. Filing with statutory authority for which no specific fee is set.

For all items in this subsection if the entire thereof does not exceed five (5) pages\$33.00

And, for all items in this subsection exceeding five (5) pages, for each additional page\$3.00

And, for all items in this subsection for each additional reference

- relating to same instrument\$4.00
- 2. The thirty-three dollar (\$33) fee imposed by this subsection shall be divided as follows:
 - a. Twenty-seven dollars (\$27) shall be retained by the county clerk; and
 - b. Six dollars (\$6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation.
- (b) For noting a security interest on a certificate of title pursuant to KRS Chapter 186A\$12.00
- (c) For filing the release of collateral under a financing statement and noting same upon the face of the title pursuant to KRS Chapter 186 or 186A \$5.00
- (d) Filing or recording state tax or other state liens\$5.00
- (e) Filing release of a state tax or other state lien\$5.00
- (f) Acknowledging or notarizing any deed, mortgage, power of attorney, or other written instrument required by law for recording and certifying same\$5.00
- (g) Recording plats, maps, and surveys, not exceeding 24 inches by 36 inches, per page\$40.00
- (h) Recording a bond, for each bond\$10.00
- (i) Each bond required to be taken or prepared by the clerk\$4.00
- (j) Copy of any bond when ordered\$3.00
- (k) Administering an oath and certificate thereof\$5.00
- (l) Issuing a license for which no other fee is fixed by law\$8.00
- (m) Issuing a solicitor's license\$15.00
- (n) Marriage license, indexing, recording, and issuing certificate thereof\$26.50
- (o) Every order concerning the establishment, changing, closing, or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed, or discontinued, and by the applicant when it is not\$3.00
- (p) Registration of licenses for professional persons required to register with the county clerk\$10.00
- (q) Certified copy of any record\$5.00
Plus fifty cents (\$.50) per page after three (3) pages
- (r) Filing certification required by KRS 65.070(2)(a)\$5.00
- (s) Filing notification and declaration and petition of candidates for Commonwealth's attorney\$200.00
- (t) Filing notification and declaration and petition of candidates for county and independent boards of education\$20.00

- (u) Filing notification and declaration and petition of candidates for boards of soil and water conservation districts\$20.00
 - (v) Filing notification and declaration and petition of candidates for other office\$50.00
 - (w) Filing declaration of intent to be a write-in candidate for office\$50.00
 - (x) Filing petitions for elections, other than nominating petitions\$50.00
 - (y) Notarizing any signature, per signature\$2.00
 - (z) Filing bond for receiving bodies under KRS 311.310\$10.00
 - (aa) Noting the assignment of a certificate of delinquency and recording and indexing the encumbrance under KRS 134.126 or 134.127\$27.00
 - (ab) Filing a going-out-of-business permit under KRS 365.445\$50.00
 - (ac) Filing a renewal of a going-out-of-business permit under KRS 365.445\$50.00
 - (ad) Filing and processing a transient merchant permit under KRS 365.680\$25.00
 - (ae) Recording and indexing a real estate mortgage:
 - 1. For a mortgage that does not exceed thirty (30) pages\$63.00
 - 2. And, for a mortgage that exceeds thirty (30) pages, for each additional page\$3.00
 - (af) Filing or recording a lien or release of lien by a consolidated local government, urban-county government, unified local government, or city of any class\$20.00
- (2) The sixty-three dollar (\$63) fee imposed by subsection (1)(ae) of this section shall be divided as follows:
- (a) Fifty-seven dollars (\$57) shall be retained by the county clerk; and
 - (b) Six dollars (\$6) shall be paid to the affordable housing trust fund established in KRS 198A.710 and shall be remitted by the county clerk within ten (10) days following the end of the quarter in which the fee was received. Each remittance to the affordable housing trust fund shall be accompanied by a summary report on a form prescribed by the Kentucky Housing Corporation.
- (3) (a) For services related to the permanent storage of records listed in paragraphs (a), (g), (n), and (ae) of subsection (1) of this section, the clerk shall be entitled to receive a reimbursement of ten dollars (\$10).
- (b) ***In counties or a county containing an urban-county government, charter county government or unified local government:***
- 1. This fee shall:
 - ~~a.[1.]~~ Not be paid annually to the fiscal court under KRS 64.152;
 - ~~b.[2.]~~ Not be paid to the Finance and Administration Cabinet under KRS 64.345;
 - ~~c.[3.]~~ Be accumulated and transferred to the fiscal court or the legislative body of ~~a consolidated local government or~~ an urban-county government on a monthly basis within ten (10) days following the end of the month;
 - ~~d.[4.]~~ Be maintained by the fiscal court or the legislative body of ~~a consolidated local government or~~ an urban-county government in a separate bank account and accounted for in a separate fund; and
 - ~~e.[5.]~~ Not lapse to the general fund of the county ~~consolidated local government,~~ or urban-county government.
 - 2.~~(c)~~ The moneys accumulated from this fee shall be held in perpetuity by the fiscal court or the legislative body of ~~a consolidated local government or~~ an urban-county government for the county clerk's exclusive use for:

- a.~~[1.]~~ Equipment related to the permanent storage of and access to records, including deed books, binders, shelves, microfilm equipment, and fireproof equipment;
- b.~~[2.]~~ Hardware for the permanent storage of and access to records, including computers, servers, and scanners;
- c.~~[3.]~~ Software for the permanent storage of and access to records, including vendor services and consumer subscription fees;
- d.~~[4.]~~ Personnel costs for the permanent storage of and access to records, including overtime costs for personnel involved in the digitization of records; and
- e.~~[5.]~~ Cloud storage and cybersecurity services for the permanent storage of and access to records.

3.~~[(d)]~~ Notwithstanding KRS 68.275, claims by a county clerk that are for the approved expenditures in *subparagraph 2. of this paragraph*~~[(e) of this subsection]~~ shall be paid by the county judge/executive or the chief executive officer of ~~a consolidated local government or~~ an urban-county government by a warrant drawn on the fund and co-signed by the treasurer of the county~~[,] consolidated local government,~~ or urban-county government.

4.~~[(e)]~~ No later than July 1 of each year, each county fiscal court or legislative body of ~~a consolidated local government or~~ an urban-county government shall submit a report to the Legislative Research Commission detailing the receipts, expenditures, and any amounts remaining in the fund.

(c) In a county containing a consolidated local government:

1. The fee shall not:

- a. *Be paid to the Finance and Administration Cabinet under KRS 64.345; or*
- b. *Lapse to the general fund of the consolidated local government.*

2. The moneys accumulated from this fee shall be held in perpetuity by the county clerk in a separate fund to be used exclusively for:

- a. *Equipment related to the permanent storage of and access to records, including deed books, binders, shelves, microfilm equipment, and fireproof equipment;*
- b. *Hardware for the permanent storage of and access to records, including computers, servers, and scanners;*
- c. *Software for the permanent storage of and access to records, including vendor services and consumer subscription fees;*
- d. *Personnel costs for the permanent storage of and access to records, including overtime costs for personnel involved in the digitization of records; and*
- e. *Cloud storage and cybersecurity services for the permanent storage of and access to records.*

3. No later than July 1 of each year, the county clerk shall submit a report to the consolidated local government and the Legislative Research Commission detailing the receipts, expenditures, and any amounts remaining in the fund.

➔ Section 2. KRS 137.115 is amended to read as follows:

(1) The fiscal court of each county is hereby given the authority to impose with respect:

- (a) To each restaurant serving meals, a license fee not to exceed ten dollars (\$10) per annum;
- (b) To each retail outlet of soft drinks or ice cream, a license fee not to exceed five dollars (\$5) per annum. In cases where ice cream and soft drinks are sold by the same retail outlet, one (1) license tax not to exceed ten dollars (\$10) per annum;
- (c) To each billiard or pool table or bowling alley, irrespective of size, where a fee is charged and collected, directly or indirectly, a license fee not to exceed thirty dollars (\$30) per annum for the first table or alley and not to exceed five dollars (\$5) per annum for each additional table or alley;

- (d) To each place where tobacco products are sold at retail, a license fee not to exceed ten dollars (\$10) per annum.
- (2) (a) All license fees shall be payable to:
 - 1. The county clerk; *or*
 - 2. ***In a county containing a consolidated local government, an agency of the consolidated local government as designated by its council.***
 - (b) ***The revenues from the license fees shall***~~and~~ be credited to the general fund of the county to be used for county purposes only.
- (3) The fiscal court of any county, ***except a county containing a consolidated local government***, may allow the county clerk a commission not to exceed five percent (5%) on the license fees collected and accounted for by him under this section in addition to the fee provided in KRS 64.012.

Signed by Governor April 11, 2023.