

AN ACT relating to coal severance revenues.

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

➔Section 1. KRS 42.450 is amended to read as follows:

- (1) There is hereby established in the State Treasury a fund entitled "Local Government Economic Assistance Fund." The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallotted or unencumbered balances in the fund shall be invested pursuant to KRS 42.500 and the income earned from the investment shall be prorated for expenditure in coal producing and coal impact counties according to each county's allocable part in the fund.
- (2)

(a) Effective July 1, 1981, an amount equal to one-half (1/2) of the tax collected annually on the sale of minerals, exclusive of coal, shall be transferred from the general fund into this fund.

(b) Effective July 1, 2015, an amount equal to one hundred percent (100%) of the tax collected on severing or processing coal pursuant to KRS 143.020 shall be transferred from the general fund into this fund.

(c) The transfers **of taxes provided in paragraphs (a) and (b) of this subsection** shall be made quarterly, based upon the revenue estimates prevailing at the time each quarterly transfer is due, except that the last quarterly transfer shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual transfer required by this subsection.
- (3) Effective October 1, 2010, the quarterly transfer of funds required by subsection (2)(a) of this section shall be made only after the quarterly installment of the annual amount from the prior calendar year allowed as an incentive to an approved company under KRS 143A.025 and 154.27-060 has been made.

➔Section 2. KRS 42.455 is amended to read as follows:

(1) There is established within the Department for Local Government a Local Government Economic Assistance Program to consist of a system of grants to local governments to improve the environment for new industry and to improve the quality of life for the residents.

(2) **Prior to July 1, 2015:**

(a) Grants obtained under this program shall be used for priority expenditures. Thirty percent (30%) of all moneys in the fund shall be spent on the coal haul road system as described in **paragraph (f) of this** subsection~~[(7) of this section]~~. The remaining seventy percent (70%) of the fund shall be spent on priority categories limited to the following, but in no event shall grants obtained under this program be used for expenses related to administration of government:

1.[(a)] Public safety, including law enforcement, fire protection, ambulance service, and other related services;

2.[(b)] Environmental protection, including sewage disposal, sanitation, solid waste, and other related programs;

3.[(c)] Public transportation, including mass transit systems, streets, and roads;

4.[(d)] Health;

5.[(e)] Recreation;

6.[(f)] Libraries and educational facilities;

7.[(g)] Social services for the poor, the elderly, and individuals with disabilities;

8.[(h)] Industrial and economic development;

9.[(i)] Vocational education;

10.[(j)] Workforce training; and

11.~~[(k)]~~ Secondary wood industry development.

(b)~~[(3)]~~ The use of entitlement funds for repayment of debt as related to long-term bond issues is permissible as long as the revenue from the bond issues is expended on priority categories.

(c)~~[(4)]~~ Grants obtained under this program may be used as local portion to secure federal programs as long as program expenditures are in the priority category area. Interest earned on funds received by local units of government shall be considered available for use by the local unit of government in the priority expenditure categories.

(d)~~[(5)]~~ The Department for Local Government shall be responsible for the promulgation of rules and regulations necessary to implement the grants programs authorized by this section.

(e)~~[(6)]~~ The Department for Local Government shall assure that a public hearing is held on the expenditure of funds received under KRS 42.450 to 42.495. Advertisement of the public hearing shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The Department for Local Government shall submit an annual report to the Governor indicating how the grants were used and an evaluation of the program's effectiveness in improving the economy of the units of government receiving assistance.

(f)~~[(7)]~~ On or before August 15, 1980, and each year thereafter, the Transportation Cabinet shall publish and furnish to the Department for Local Government a directory, including supporting maps and other documents, designating the official state coal road system in coal-impact and coal-producing counties which shall include all public highways, roads, and streets over which quantities of coal, sufficient to significantly affect the condition

and state of repair of highways, roads, and streets, have been transported in the immediately preceding fiscal year. The cabinet shall further publish the total county mileage of the official state coal road system and the total ton/miles within each coal-impact and coal-producing county for said preceding fiscal year.

~~(g)~~~~(8)~~ Every person shipping or transporting coal, and every carrier for hire or common carrier hauling coal over the public highways, roads, and streets shall file with the Transportation Cabinet such information and at intervals as the cabinet shall designate by regulation duly adopted for the purpose of identifying those highways, roads, and streets comprising the coal haul road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton/miles within each coal-impact and coal-producing county.

~~(h)~~~~(9)~~ The Department of Revenue shall make available to the Transportation Cabinet coal severance and processing tax data for use in verifying and supplementing the information furnished under the provisions of paragraph (g) of this subsection~~[(8) of this section]~~. The information shall be furnished in such a manner as to conceal the identity of individual taxpayers; if the data cannot be furnished without revealing the identity of individual taxpayers, it shall be withheld.

(3) Effective July 1, 2015, moneys shall be allocated among the counties as provided by Section 7 of this Act.

➔Section 3. KRS 42.4582 is amended to read as follows:

- (1) There is hereby established in the State Treasury a fund entitled "Local Government Economic Development Fund." The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallotted

or unencumbered balances in the fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be prorated for grants to counties according to the allotment schedule set out in KRS 42.4592.

(2) **Prior to July 1, 2015:**

- (a) Moneys shall be transferred from the general fund in an amount equal to fifty percent (50%) of the severance and processing taxes on coal collected annually, unless otherwise amended by the budget bill.
- (b) The transfers shall be made quarterly, based upon the revenue estimates prevailing at the time each quarterly transfer is due, except that the last quarterly transfer shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual transfer required by this subsection.
- (c) The quarterly calculation and transfer of funds pursuant to this section shall be made only after distribution of the quarterly installment of the annual amount from the prior calendar year allowed as an incentive to an approved company under KRS 143.024 and 154.27-060.

(3) **On July 1, 2015, the fund shall be closed and all moneys remaining in the fund at that time shall be transferred to the local government economic assistance fund established by Section 1 of this Act and shall be allocated among the counties as provided by Section 7 of this Act.**

➔Section 4. KRS 42.4585 is amended to read as follows:

Prior to July 1, 2015:

- (1) A portion of each quarterly transfer of moneys provided for in KRS 42.4582 shall be transferred from the local government economic development fund into the local government economic assistance fund;[.]
- (2) The amount transferred annually from the local government economic development fund into the local government economic assistance fund under the provisions of

subsection (1) of this section shall be not less than an amount equal to fifteen percent (15%) of the severance and processing taxes on coal collected annually; and

- (3) The quarterly calculation and transfer of funds pursuant to subsections (1) and (2) of this section shall be made only after distribution of the quarterly installment of the annual amount from the prior calendar year allowed as an incentive to an approved company under KRS 143.024 and 154.27-060.

➔Section 5. KRS 42.4588 is amended to read as follows:

- (1) (a) A Local Government Economic Development Program is established to consist of a system of grants to counties to attract new industry. Grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be administered by the Department for Local Government. Grants from funds provided for in KRS 42.4592(1)(c) shall be administered by the Kentucky Economic Development Finance Authority.
- (b) All references in this section to the commissioner of the Department for Local Government relate only to the grants or industrial development projects funded through KRS 42.4592(1)(a) and (b). All references in this section to the secretary of the Cabinet for Economic Development or the Kentucky Economic Development Finance Authority relate only to grants or industrial development projects funded through KRS 42.4592(1)(c).
- (2) Grants obtained under this program shall be used for:
- (a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority or the Department for Local Government, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government;

- (b) Industrial development projects if the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government; and
 - (c) Debt service for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government under the provisions of subsection (3) of this section.
- (3) The secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the secretary or the commissioner finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The secretary or the commissioner may also approve privately owned facilities for transient lodging and recreation where the secretary or commissioner finds that the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants provided for in subsection (10)(a), (b), and (c) of this section shall be paramount in the case of lodging and recreational facilities.
- (4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds

- provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.
- (5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.
 - (6) An industrial development project may include legal, accounting, engineering, and marketing expenses for a regional industrial park, in addition to the activities set forth in subsection (11)(a) of this section.
 - (7) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.
 - (8) Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed the current biennium of the Commonwealth and shall be limited to an amount not to exceed the amount estimated to be allocated to the applicant county or counties for the current biennium under the provisions of KRS 42.4592(1)(a) and (b).
 - (9) Approval of grant applications shall be by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government. Award of grants from funds provided for in KRS 42.4592(1)(c) shall be by the Kentucky Economic Development Finance Authority. Award of grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be by the commissioner of the Department

for Local Government.

(10) Criteria for approval of applications and the award of grants to be considered, if applicable, shall include:

- (a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;
- (b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;
- (c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;
- (d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;
- (e) The needs of any industrial firm benefiting from the industrial development project;
- (f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;
- (g) The amount of capital made available to the facility by lenders and by the industrial firm; and
- (h) The economic feasibility of the facility.

(11) For purposes of this section:

- (a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of

the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; and job development incentive grants;

- (b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section;
- (c) "Job development incentive grant" means an award to a county of funds from its account administered by the Department for Local Government pursuant to KRS 42.4592(1)(a) and (b) for the use by the county to encourage job development for those industrial development projects located in that county which create at least twenty-five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant shall be limited to five thousand dollars (\$5,000) for each job created which

fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars (\$10,000) per new job created. After a fiscal court has received authorization for the job development grant by the Department for Local Government, the county, the industrial firm, and the Department for Local Government shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:

1. The industrial firm has made at least the minimum investment required;
2. At least twenty-five (25) new full-time Kentucky jobs have been created at the project site by the industrial firm;
3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;
4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;
5. Each employee hired for the project by the industrial firm shall have worked on a full-time basis at the minimum wages described in this section at least twelve (12) full consecutive months at the site prior to any grant funds disbursement; and
6. No job created by the industrial firm after twenty-four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

If the county is satisfied the information provided is accurate and qualifies the

industrial firm for the job development incentive grant as described in the agreement, it shall forward the certified information to the Department for Local Government, which shall make the job development grant disbursement upon sufficient evidence that all terms of the agreement have been met; and

- (d) "Regional industrial park" means an industrial development project authorized for a grant award by the Kentucky Economic Development Finance Authority for a minimum of three (3) counties eligible for grant funds provided for in KRS 42.4592(1)(c), which coalition may include a county as approved under subsection (5) of this section.
- (12) Findings by the secretary of the Cabinet for Economic Development or the commissioner of the Department for Local Government, provided for in subsections (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties, the Governor, and the Legislative Research Commission.
- (13) By October 1 of each odd-numbered year, the secretary of the Cabinet for Economic Development and the commissioner of the Department for Local Government shall each provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.
- (14) (a) Projects specifically authorized by appropriations made by the General Assembly in an enacted budget bill, with the funding source identified as funds allocated to individual counties under KRS 42.4592(1)(a) or (b), shall be deemed approved and shall not be subject to the application process established in this section.
- (b) Projects described in paragraph (a) of this subsection shall be subject to a

memorandum of agreement between the entity identified in the appropriation and the Department for Local Government. The memorandum of agreement shall address the legal requirements for the disbursement and accounting of funds.

- (c) Within thirty (30) days of the receipt of a written request from an entity designated in the appropriation for funding related to a project described in paragraph (a) of this subsection, the Department for Local Government shall prepare and send a memorandum of agreement to the designated entity for review and signature. Upon receipt of the signed memorandum of agreement from the designated entity, the Department for Local Government shall release the funds for the project for use by the designated entity.
- (d) Funds appropriated for specific projects as described in paragraph (a) of this subsection shall not be expended for any other purpose, provided that the commissioner of the Department for Local Government may, upon written request by a designated entity identifying an extraordinary circumstance or emergency situation, approve the reallocation of funds appropriated for a specific project as described in paragraph (a) of this subsection to the extent necessary to address the extraordinary circumstance or emergency situation. Any approval under this paragraph shall be made in writing, and shall be reported to the State Budget Director and the Interim Joint Committee on Appropriations and Revenue within thirty (30) days of the approval being made.

(15) On and after July 1, 2015, no new grants shall be issued and the program shall be terminated.

➔Section 6. KRS 42.4592 is amended to read as follows:

- (1) **Prior to July 1, 2015,** moneys remaining in the local government economic development fund following the transfer of moneys to the local government

economic assistance fund provided for in KRS 42.4585 shall be allocated as follows:

- (a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal producing county on the basis of the ratio of total tax collected in the current and preceding four (4) years on coal severed in each respective county to the total tax collected statewide in the current and four (4) preceding years;
 - (b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to each coal-producing county on the basis of the following factors, which shall be computed for the current and four (4) preceding years, and which shall be equally weighted:
 - 1. Percentage of employment in mining in relation to total employment in the respective county;
 - 2. Percentage of earnings from mining in relation to total earnings in the respective county; and
 - 3. Surplus labor rate; and
 - (c) Thirty-three and one-third percent (33-1/3%) shall be reserved for expenditure for industrial development projects benefiting two (2) or more coal-producing counties. For purposes of this paragraph, "coal-producing county" shall mean a county which has produced coal in the current or any one of the four (4) preceding years.
- (2) (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of employment in mining" and "percentage of earnings from mining" shall be the percentages published for the latest available five (5) year period by the Bureau of Economic Analysis in the United States Department of Commerce; "surplus labor rate" shall be the rate published for the latest available five (5) year period by the Office of Employment and Training of the Department of Workforce Investment in the Education and Workforce Development Cabinet,

as provided in paragraph (b) of this subsection.

- (b) 1. Each year the Office of Employment and Training shall estimate surplus labor for each county and for the Commonwealth and shall annually publish an estimate of the surplus labor rate for each county and the Commonwealth.
 2. The estimate of surplus labor for each county and for the Commonwealth shall be made using the best practical method available at the time the estimates are made. In determining the method to be adopted, the Office of Employment and Training may consult with knowledgeable individuals, including but not limited to the Office of the United States Bureau of Labor Statistics, state and national researchers, state and local officials, and staff of the Legislative Research Commission. The description of the method used to estimate surplus labor shall be reported in each annual publication provided for in subparagraph 1. of this paragraph.
 3. For purposes of this section, "surplus labor" means the total number of residents who can be classified as unemployed or as discouraged workers, and "surplus labor rate" means the percentage of the potential civilian labor force which is surplus labor.
- (3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1) of this section shall retain their identity with respect to the county to which they are attributable, and a separate accounting of available moneys within the fund shall be maintained for the respective counties. Accounting for funds allocated under the provisions of this section shall be by the Department for Local Government.

➔Section 7. KRS 42.470 is amended to read as follows:

Moneys in the local government economic assistance fund shall be allocated among the counties as follows:

- (1) Funds allocated under KRS 42.4585 prior to July 1, 2015:
- (a) Sixty percent (60%) shall be distributed to each coal producing county on the basis of the ratio of tax collected on coal severed in each respective county to the tax collected statewide.
 - (b) Thirty percent (30%) shall be distributed to each coal producing county on the basis of per capita income (inverse order), ton miles of resource roads and population, equally weighted.
 - (c) Ten percent (10%) shall be distributed to non-coal producing counties impacted by the transport of coal on the basis of geographic area, ton miles of resource roads, and per capita income (inverse order), weighted on a basis of 30/100, 40/100, and 30/100, respectively. The expenditure of such funds shall be limited to the categories of projects set out in KRS 42.455(2)(a)3~~(c)~~. All counties shall receive an annual payment based on the average of total ton miles within the county during the most recent three (3) year period. To qualify for the funds distributed under the provisions of this paragraph, a county must have within its geographic boundaries in any single year twenty-five hundredths of one percent (0.25%) of the total ton miles within coal impact counties during the most recent three (3) year period.
- (2) (a) All funds allocated under KRS 42.450(2)(a) shall be distributed among the mineral producing counties on the basis of the tax collected on minerals severed in each respective county.
- (b) All funds allocated under KRS 42.450(2)(b) shall be distributed among the coal producing counties on the basis of the tax collected on coal severed or processed in each respective county.

➔Section 8. KRS 42.472 is amended to read as follows:

Moneys from tar sands distributed to counties under KRS 42.470(2)(a) shall be used for economic development purposes as approved by the Department for Local Government.

→Section 9. KRS 42.475 is amended to read as follows:

Ten percent (10%) of the funds allocated to each county under the provisions of KRS 42.470(1) shall be allotted to the incorporated areas within the county based on the ratio that the population of each incorporated area bears to the total population of all the incorporated areas within the county; except that incorporated areas shall not be eligible for funds allocated to counties under the provisions of KRS 42.490 and 1980 Acts, ch. 394, sec. 11.

→Section 10. KRS 42.480 is amended to read as follows:

- (1) (a) On or before July 1, 1992, and each year thereafter until June 30, 2015, the commissioner of the Department for Local Government shall provide the Cabinet for Economic Development, the Kentucky Economic Development Finance Authority, and the legislative body of each local government eligible for funds under the provisions of KRS 42.450 to 42.495, an estimate of the funds that will be allocated to the local government~~[for fiscal year 1992-93, and each year thereafter].~~

(b) No later than July 1, 2015, and each year thereafter, the commissioner of the Department for Local Government shall provide the legislative body of each local government eligible for funds under the provisions of KRS 42.450 to 42.495 an estimate of the funds that will be allocated to the local government.

- (2) On or before the fifteenth of the first month of a quarter, the commissioner of the Department for Local Government shall cause to be remitted to the legislative bodies of the local governments eligible for funds from the local government economic assistance fund, the funds allocated to the respective local governments for the prior quarter; except that the remittance for the last quarter of a fiscal year shall be made after the close of the fiscal year accounting records and shall be adjusted to provide the balance of the annual allocation due the local government.

➔Section 11. KRS 143.090 is amended to read as follows:

- (1) The Transportation Cabinet shall certify to the commissioner of the Department of Revenue by October 1 of each fiscal year *prior to the fiscal year 2015-2016* the amount required for lease rental payments to the Kentucky Turnpike Authority for resource recovery road projects.
- (2) The Department for Energy Development and Independence shall certify to the commissioner of the Department of Revenue by October 1 of each *fiscal* year *prior to the fiscal year 2015-2016* the amount of the annual lease rental payments required to be made for any energy research development or demonstration project undertaken by the Department for Energy Development and Independence. The amount so certified shall in no case exceed three million dollars (\$3,000,000) in any one (1) year.
- (3) Upon receiving the certifications provided for in subsections (1) and (2) of this section, the commissioner of the Department of Revenue shall cause the certified amounts to be deposited from the proceeds of the tax levied by KRS 143.020 to the credit of the transportation fund and the Department for Energy Development and Independence, respectively, unless otherwise provided by the General Assembly in a budget bill, as follows:
 - (a) An amount equal to the amount certified by the Transportation Cabinet shall be deposited to the transportation fund (road fund); and
 - (b) An amount equal to the amount certified by the Department for Energy Development and Independence shall be transferred by appropriate interfund transfer procedures to the Department for Energy Development and Independence.
- (4) All tax levied *prior to July 1, 2015*, by KRS 143.020 collected in excess of the amount required to be deposited to the transportation fund (road fund) or transferred to the Department for Energy Development and Independence shall be deposited by

the Department of Revenue to the credit of the general fund.

- (5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified under subsections (1) and (2) of this section, the commissioner of revenue shall prorate the proceeds to the transportation fund and the Department for Energy Development and Independence based upon the ratio of each certified amount to the total of the two (2) certified amounts.

➔Section 12. KRS 164.7890 is amended to read as follows:

- (1) To ensure the public health purpose of access to pharmaceutical services in the coal-producing counties of the Commonwealth, which have been traditionally underserved for pharmaceutical services due to a shortage of pharmacists in the Commonwealth, the General Assembly hereby establishes a coal county scholarship program to provide eligible Kentucky students the opportunity to attend an accredited school of pharmacy or a provisionally accredited school of pharmacy in the Commonwealth, and to become certified pharmacists in the Commonwealth, provided that the scholarship recipient agrees to practice pharmacy in a coal-producing county for each year a scholarship is provided.
- (2) "Coal-producing county" as used in this section has the same meaning as in KRS 42.4592(1)(c).
- (3) The authority may award scholarships, to the extent funds are available for that purpose, to any person who:
 - (a) Is a Kentucky resident;
 - (b) Is considered a permanent resident of a coal-producing county for at least one (1) year immediately preceding July 1 of the academic year in which the scholarship is made for students who first receive a scholarship under this section on or after July 1, 2014;
 - (c) Is a United States citizen as determined by the institution in accordance with criteria established by the Council on Postsecondary Education for the

- purposes of admission and tuition assessment;
- (d) Is enrolled or accepted for enrollment in a Pharm.D. program at an accredited institution or a provisionally accredited institution in the Commonwealth on a full-time basis, or is a student who has a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability;
 - (e) Agrees to render one (1) year of qualified service in a coal-producing county of the Commonwealth for each year the scholarship was awarded. "Qualified service" means a full-time practice in a coal-producing county of the Commonwealth of Kentucky as a licensed pharmacist for a majority of the calendar year, 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., whose disability, certified by another licensed physician, prevents him or her from practicing full-time, shall be deemed to perform qualified service by practicing the maximum time permitted by the attending physician, in the coal-producing county; and
 - (f) Agrees to sign a promissory note as evidence of the scholarship awarded and the obligation to repay the scholarship amount or render pharmacy service as agreed in lieu of payment.
- (4) (a) Notwithstanding KRS 164.753(3), the amount of the scholarship shall not exceed forty percent (40%) of the approximate average of first professional year in-state tuition for all pharmacy schools in the United States. The authority shall establish, by administrative regulation a procedure for awarding scholarships which shall give preference to students residing in coal-producing counties and which shall establish procedures to award scholarships should funding be insufficient to award scholarships to all eligible students.

- The authority may also, by administrative regulation, establish scholarship amounts based on demonstration of initial financial need by eligible students.
- (b) The actual amount of the scholarship awarded to each eligible student by the authority for each semester shall be based on the amount of funds available and the criteria established under paragraph (a) of this subsection.
- (5) (a) The authority shall require each student receiving a scholarship to execute a promissory note as evidence of the obligation.
- (b) The recipient shall render one (1) year of qualified service in a coal-producing county for each year the scholarship was awarded. Upon completion of each year of qualified service in a coal-producing county, the authority shall cancel the appropriate number of promissory notes. Promissory notes shall be canceled by qualified service in the order in which the promissory notes were executed. Service credit shall not include residency service.
 - (c) If a recipient fails to complete an eligible program of study, or fails to render service as a pharmacist as agreed in this subsection, the recipient shall be liable for the total repayment of the sum of all outstanding promissory notes and accrued interest.
- (6) Any person who is in default on any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.785 shall not be awarded a scholarship or have a promissory note canceled until all financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.
- (7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of executing the promissory note.
- (8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of the scholarship recipient's license to practice pharmacy, subject to the procedures set forth in KRS Chapter 311.

- (9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative regulation procedures for the administration of this program, including but not limited to the execution of appropriate contracts and promissory notes, cancellation of obligations, the rate of repayment, and deferment of repayment of outstanding debt.
- (10) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be 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.
- (11) (a) The coal county pharmacy scholarship fund is hereby created as a revolving fund in the State Treasury to be administered by the Kentucky Higher Education Assistance Authority for the purpose of providing scholarships to qualifying students studying pharmacy in schools in the Commonwealth.
- (b) The fund shall consist of amounts transferred from coal severance tax receipts as provided in paragraph (c) of this subsection and any other proceeds from grants, contributions, appropriations, or other moneys made available for the fund.
- (c) 1. **Prior to July 1, 2015,** receipts from the coal severance tax levied under KRS 143.020 shall be transferred to the fund on an annual basis in an amount not to exceed the lesser of:
- a. Four percent (4%) of the total annual coal severance tax revenues collected under KRS 143.020; or
 - b. The amount necessary to provide full funding for all students who qualify for a scholarship under this section, considering all other resources available.
2. Transfers required by subparagraph 1. of this paragraph shall be made as

follows:

- a. On or before August 1 of each year, sixty-five percent (65%) of the amount of funding provided for in this paragraph shall be transferred to the fund; and
 - b. The remaining thirty-five percent (35%) shall be transferred on or before December 1 of each year.
3. The amount transferred shall be based upon the prevailing revenue estimate for coal severance tax receipts at the time each transfer is made.
- (d) Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9).
 - (e) Income earned from the investments shall be credited to the trust fund.
 - (f) Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year shall not lapse but shall be transferred to the Osteopathic Medicine Scholarship Program described in KRS 164.7891 within ninety (90) days of the end of the fiscal year.
 - (g) All amounts included in the fund shall be continuously appropriated only for the purposes specified in this section.
 - (h) A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this action.
 - (i) All moneys repaid to the authority under this section shall be added to the fund.

➔Section 13. KRS 164.7891 is amended to read as follows:

- (1) It is the intent of the General Assembly to establish a scholarship program to provide eligible Kentucky students the opportunity to attend an accredited osteopathic school of medicine located in the Commonwealth and become certified practitioners rendering medical service in the Commonwealth.

- (2) The Kentucky Higher Education Assistance Authority may award scholarships, to the extent funds are available for that purpose, to persons who declare an intent to become osteopaths and practice in the Commonwealth and who are eligible under subsection (4) of this section.
- (3) The authority may award scholarships to students who meet the following criteria:
 - (a) Kentucky residents who are United States citizens as determined by the institution in accordance with criteria established by the Council on Postsecondary Education for the purposes of admission and tuition assessment;
 - (b) Students who are enrolled or accepted for enrollment in an eligible program of study accredited by the Bureau of Professional Education of the American Osteopathy Association or its successor, on a full-time basis, or eligible students who have a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability;
 - (c) Students who agree to render one (1) year of qualified service in the Commonwealth for each year the scholarship was awarded. "Qualified service" means a full-time practice in the Commonwealth of Kentucky as a licensed doctor of osteopathy for a majority of the calendar year in the fields of family practice, general practice, general internal medicine, general pediatrics, general obstetrics, or gynecology, 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., whose disability, certified by another licensed physician, prevents him or her from practicing full-time, shall be deemed to perform qualified service by practicing the maximum time permitted by the attending physician; and

- (d) Students who sign a promissory note as evidence of the scholarship awarded and the obligation to repay the scholarship amount or render medical service as agreed in lieu of payment.
- (4) The amount of the scholarship awarded to an eligible student by the authority shall be equal to the difference between:
 - (a) The average of the prevailing amount charged for in-state tuition at the University of Kentucky School of Medicine and the University of Louisville School of Medicine; and
 - (b) The prevailing amount charged for tuition at the osteopathic school of medicine in which the student is enrolled.
- (5) The authority shall require a promissory note to be executed by the student as evidence of the obligation. The recipient shall render one (1) year of qualified service for each year the scholarship was awarded. Upon completion of each year of qualified service, the authority shall cancel the appropriate number of promissory notes. Promissory notes shall be canceled by qualified service in the order in which the promissory notes were executed. Service credit shall not include residency service. In the event a recipient fails to complete an eligible program of study, or fails to render qualified medical service as a primary care physician as agreed in subsection (3) of this section, the recipient shall be liable for the total repayment of the sum of all outstanding promissory notes and accrued interest.
- (6) A 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 under 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.
- (7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of executing the promissory note.

- (8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of the scholarship recipient's license to practice medicine, subject to the procedures set forth in KRS Chapter 311.
- (9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative regulation procedures or the terms of promissory notes for the administration of this program, including the execution of appropriate contracts and promissory notes, cancellation of the obligation, the rate of repayment and deferment of repayment of outstanding debt, and the priority of awarding scholarships if funds are insufficient to honor all requests.
- (10) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be 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.
- (11) (a) The "Osteopathic Medicine Scholarship Program" is hereby created as a special trust fund in the State Treasury administered by the Kentucky Higher Education Assistance Authority for the purpose of providing funds for scholarships to eligible students studying osteopathic medicine in schools in the Commonwealth.
- (b) **Prior to July 1, 2015,** funding shall be transferred to the special trust fund from the coal severance tax revenues levied under KRS 143.020 in an amount that permits each Kentucky resident eligible under subsection (3) of this section to be awarded a scholarship in the amount established under subsection (4) of this section. No more than four percent (4%) of the coal severance tax revenues levied under KRS 143.020 and collected annually shall be transferred to the trust fund. To the extent this appropriation and other funds are available, the authority shall award scholarships to all renewal

applicants and eligible students in accordance with the formula for determining the amount of the scholarship award established in this section.

- (c) The trust fund may~~[-also]~~ receive state appropriations, gifts, and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund. 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. A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this section.
- (d) 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.
- (12) On or before August 1 of each year, sixty-five percent (65%) of the amount of funding provided in subsection (11)(b) of this section shall be transferred to the special trust fund and the remaining thirty-five percent (35%) shall be transferred on or before December 1 of each year. The revenue transfers shall be based upon the revenue estimates prevailing at the time each transfer is due.

➔Section 14. The following KRS section is repealed:

42.490 Transfer of fund balances of county.