

1 AN ACT relating to reorganization.

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

3 ➔Section 1. KRS 12.020 is amended to read as follows:

4 Departments, program cabinets and their departments, and the respective major
5 administrative bodies that they include are enumerated in this section. It is not intended
6 that this enumeration of administrative bodies be all-inclusive. Every authority, board,
7 bureau, interstate compact, commission, committee, conference, council, office, or any
8 other form of organization shall be included in or attached to the department or program
9 cabinet in which they are included or to which they are attached by statute or statutorily
10 authorized executive order; except in the case of the Personnel Board and where the
11 attached department or administrative body is headed by a constitutionally elected officer,
12 the attachment shall be solely for the purpose of dissemination of information and
13 coordination of activities and shall not include any authority over the functions,
14 personnel, funds, equipment, facilities, or records of the department or administrative
15 body.

16 I. Cabinet for General Government - Departments headed by elected officers:

- 17 (1) The Governor.
- 18 (2) Lieutenant Governor.
- 19 (3) Department of State.
- 20 (a) Secretary of State.
- 21 (b) Board of Elections.
- 22 (c) Registry of Election Finance.
- 23 (4) Department of Law.
- 24 (a) Attorney General.
- 25 (5) Department of the Treasury.
- 26 (a) Treasurer.
- 27 (6) Department of Agriculture.

- 1 (a) Commissioner of Agriculture.
- 2 (b) Kentucky Council on Agriculture.
- 3 (7) Auditor of Public Accounts.
- 4 II. Program cabinets headed by appointed officers:
- 5 (1) Justice and Public Safety Cabinet:
- 6 (a) Department of Kentucky State Police.
- 7 (b) Department of Criminal Justice Training.
- 8 (c) Department of Corrections.
- 9 (d) Department of Juvenile Justice.
- 10 (e) Office of the Secretary.
- 11 (f) Office of Drug Control Policy.
- 12 (g) Office of Legal Services.
- 13 (h) Office of the Kentucky State Medical Examiner.
- 14 (i) Parole Board.
- 15 (j) Kentucky State Corrections Commission.
- 16 (k) Office of Legislative and Intergovernmental Services.
- 17 (l) Office of Management and Administrative Services.
- 18 (m) Department of Public Advocacy.
- 19 (2) Education and Workforce Development Cabinet:
- 20 (a) Office of the Secretary.
- 21 1. Governor's Scholars Program.
- 22 2. Governor's School for Entrepreneurs Program.
- 23 **3. Office of the Kentucky Workforce Innovation Board.**
- 24 **4. Foundation for Adult Education.**
- 25 **5. Early Childhood Advisory Council.**
- 26 (b) Office of Legal and Legislative Services.
- 27 1. Client Assistance Program.

- 1 (c) Office of Communication.
- 2 (d) Office of *Administrative Services*~~[Budget and Administration]~~.
- 3 1. Division of Human Resources.
- 4 2. *Division of Operations and Support Services*~~[Division of~~
5 ~~Administrative Services.]~~
- 6 *3. Division of Fiscal Management.*
- 7 (e) Office of Technology Services.
- 8 (f) Office of Educational Programs.
- 9 (g) Office for Education and Workforce Statistics.
- 10 (h) Board of the Kentucky Center for Education and Workforce Statistics.
- 11 (i) Board of Directors for the Center for School Safety.
- 12 (j) Department of Education.
- 13 1. Kentucky Board of Education.
- 14 2. Kentucky Technical Education Personnel Board.
- 15 (k) Department for Libraries and Archives.
- 16 (l) Department of Workforce Investment.
- 17 1. ~~[Office for the Blind.~~
- 18 ~~2.]~~ Office of Vocational Rehabilitation.
- 19 *a. Division of Kentucky Business Enterprise.*
- 20 *b. Division of the Carl D. Perkins Vocational Training*
21 *Center.*
- 22 *c. Division of Blind Services.*
- 23 *d. Division of Field Services.*
- 24 *e. Statewide Council for Vocational Rehabilitation.*
- 25 *2.[3.] Office of Unemployment Insurance*~~[Office of Employment and~~
26 ~~Training.~~
- 27 ~~a. Division of Grant Management and Support.~~

1 b.— ~~Division of Workforce and Employment Services.~~

2 c.— ~~Division of Unemployment Insurance].~~

3 **3. Office of Employer and Apprenticeship Services.**

4 **4. Office of Career Development.**

5 **5. Office of Adult Education.**

6 **6. Unemployment Insurance Commission.**

7 (m) Foundation for Workforce Development.

8 (n) ~~[Kentucky Office for the Blind State Rehabilitation Council.~~

9 ~~(o)]~~ Kentucky Workforce Investment Board.

10 ~~(p)— Statewide Council for Vocational Rehabilitation.~~

11 ~~(q)— Unemployment Insurance Commission.~~

12 ~~(r)]~~ Education Professional Standards Board.

13 1. Division of Educator Preparation.

14 2. Division of Certification.

15 3. Division of Professional Learning and Assessment.

16 4. Division of Legal Services.

17 ~~(s)]~~ Kentucky Commission on the Deaf and Hard of Hearing.

18 ~~(t)]~~ Kentucky Educational Television.

19 ~~(u)]~~ Kentucky Environmental Education Council.

20 (3) Energy and Environment Cabinet:

21 (a) Office of the Secretary.

22 1. Office of Legislative and Intergovernmental Affairs.

23 2. Office of Legal Services.

24 a. Legal Division I.

25 b. Legal Division II.

26 3. Office of Administrative Hearings.

27 4. Office of Communication.

- 1 5. Mine Safety Review Commission.
- 2 6. Office of Kentucky Nature Preserves.
- 3 7. Kentucky Public Service Commission.
- 4 (b) Department for Environmental Protection.
- 5 1. Office of the Commissioner.
- 6 2. Division for Air Quality.
- 7 3. Division of Water.
- 8 4. Division of Environmental Program Support.
- 9 5. Division of Waste Management.
- 10 6. Division of Enforcement.
- 11 7. Division of Compliance Assistance.
- 12 (c) Department for Natural Resources.
- 13 1. Office of the Commissioner.
- 14 2. Division of Mine Permits.
- 15 3. Division of Mine Reclamation and Enforcement.
- 16 4. Division of Abandoned Mine Lands.
- 17 5. Division of Oil and Gas.
- 18 6. Division of Mine Safety.
- 19 7. Division of Forestry.
- 20 8. Division of Conservation.
- 21 9. Office of the Reclamation Guaranty Fund.
- 22 (d) Office of Energy Policy.
- 23 1. Division of Energy Assistance.
- 24 (e) Office of Administrative Services.
- 25 1. Division of Human Resources Management.
- 26 2. Division of Financial Management.
- 27 3. Division of Information Services.

- 1 (4) Public Protection Cabinet.
- 2 (a) Office of the Secretary.
- 3 1. Office of Communications and Public Outreach.
- 4 2. Office of Legal Services.
- 5 a. Insurance Legal Division.
- 6 b. Charitable Gaming Legal Division.
- 7 c. Alcoholic Beverage Control Legal Division.
- 8 d. Housing, Buildings and Construction Legal Division.
- 9 e. Financial Institutions Legal Division.
- 10 f. Professional Licensing Legal Division.
- 11 3. Office of Administrative Hearings.
- 12 4. Office of Administrative Services.
- 13 a. Division of Human Resources.
- 14 b. Division of Fiscal Responsibility.
- 15 (b) Kentucky Claims Commission.
- 16 (c) Kentucky Boxing and Wrestling Commission.
- 17 (d) Kentucky Horse Racing Commission.
- 18 1. Office of Executive Director.
- 19 a. Division of Pari-mutuel Wagering and Compliance.
- 20 b. Division of Stewards.
- 21 c. Division of Licensing.
- 22 d. Division of Enforcement.
- 23 e. Division of Incentives and Development.
- 24 f. Division of Veterinary Services.
- 25 (e) Department of Alcoholic Beverage Control.
- 26 1. Division of Distilled Spirits.
- 27 2. Division of Malt Beverages.

- 1 3. Division of Enforcement.
- 2 (f) Department of Charitable Gaming.
- 3 1. Division of Licensing and Compliance.
- 4 2. Division of Enforcement.
- 5 (g) Department of Financial Institutions.
- 6 1. Division of Depository Institutions.
- 7 2. Division of Non-Depository Institutions.
- 8 3. Division of Securities.
- 9 (h) Department of Housing, Buildings and Construction.
- 10 1. Division of Fire Prevention.
- 11 2. Division of Plumbing.
- 12 3. Division of Heating, Ventilation, and Air Conditioning.
- 13 4. Division of Building Code Enforcement.
- 14 (i) Department of Insurance.
- 15 1. Division of Insurance Product Regulation.
- 16 2. Division of Administrative Services.
- 17 3. Division of Financial Standards and Examination.
- 18 4. Division of Agent Licensing.
- 19 5. Division of Insurance Fraud Investigation.
- 20 6. Division of Consumer Protection.
- 21 7. Division of Kentucky Access.
- 22 (j) Department of Professional Licensing.
- 23 1. Real Estate Authority.
- 24 (5) Labor Cabinet.
- 25 (a) Office of the Secretary.
- 26 1. Office of General Counsel.
- 27 a. Workplace Standards Legal Division.

- 1 b. Workers' Claims Legal Division.
- 2 2. Office of Administrative Services.
- 3 a. Division of Human Resources Management.
- 4 b. Division of Fiscal Management.
- 5 c. Division of Professional Development and Organizational
- 6 Management.
- 7 d. Division of Information Technology and Support Services.
- 8 3. Office of Inspector General.
- 9 (b) Department of Workplace Standards.
- 10 1. ~~Division of Apprenticeship.~~
- 11 ~~2.~~ Division of Occupational Safety and Health Compliance.
- 12 2.~~[3.]~~ Division of Occupational Safety and Health Education and
- 13 Training.
- 14 3.~~[4.]~~ Division of Wages and Hours.
- 15 (c) Department of Workers' Claims.
- 16 1. Division of Workers' Compensation Funds.
- 17 2. Office of Administrative Law Judges.
- 18 3. Division of Claims Processing.
- 19 4. Division of Security and Compliance.
- 20 5. Division of Information Services.
- 21 6. Division of Specialist and Medical Services.
- 22 7. Workers' Compensation Board.
- 23 (d) Workers' Compensation Funding Commission.
- 24 (e) Occupational Safety and Health Standards Board.
- 25 (f) Apprenticeship and Training Council.
- 26 (g) State Labor Relations Board.
- 27 (h) Employers' Mutual Insurance Authority.

- 1 (i) Kentucky Occupational Safety and Health Review Commission.
- 2 (j) Workers' Compensation Nominating Committee.
- 3 (6) Transportation Cabinet:
- 4 (a) Department of Highways.
- 5 1. Office of Project Development.
- 6 2. Office of Project Delivery and Preservation.
- 7 3. Office of Highway Safety.
- 8 4. Highway District Offices One through Twelve.
- 9 (b) Department of Vehicle Regulation.
- 10 (c) Department of Aviation.
- 11 (d) Department of Rural and Municipal Aid.
- 12 1. Office of Local Programs.
- 13 2. Office of Rural and Secondary Roads.
- 14 (e) Office of the Secretary.
- 15 1. Office of Public Affairs.
- 16 2. Office for Civil Rights and Small Business Development.
- 17 3. Office of Budget and Fiscal Management.
- 18 4. Office of Inspector General.
- 19 (f) Office of Support Services.
- 20 (g) Office of Transportation Delivery.
- 21 (h) Office of Audits.
- 22 (i) Office of Human Resource Management.
- 23 (j) Office of Information Technology.
- 24 (k) Office of Legal Services.
- 25 (7) Cabinet for Economic Development:
- 26 (a) Office of the Secretary.
- 27 1. Office of Legal Services.

- 1 2. Department for Business Development.
- 2 3. Department for Financial Services.
 - 3 a. Kentucky Economic Development Finance Authority.
 - 4 b. Finance and Personnel Division.
 - 5 c. IT and Resource Management Division.
 - 6 d. Compliance Division.
 - 7 e. Incentive Administration Division.
 - 8 f. Bluegrass State Skills Corporation.
- 9 4. Office of Marketing and Public Affairs.
 - 10 a. Communications Division.
 - 11 b. Graphics Design Division.
- 12 5. Office of Workforce, Community Development, and Research.
- 13 6. Office of Entrepreneurship.
 - 14 a. Commission on Small Business Advocacy.
- 15 (8) Cabinet for Health and Family Services:
 - 16 (a) Office of the Secretary.
 - 17 (b) Office of Health Policy.
 - 18 (c) Office of Legal Services.
 - 19 (d) Office of Inspector General.
 - 20 (e) Office of Communications and Administrative Review.
 - 21 (f) Office of the Ombudsman.
 - 22 (g) Office of Finance and Budget.
 - 23 (h) Office of Human Resource Management.
 - 24 (i) Office of Administrative and Technology Services.
 - 25 (j) Department for Public Health.
 - 26 (k) Department for Medicaid Services.
 - 27 (l) Department for Behavioral Health, Developmental and Intellectual

- 1 Disabilities.
- 2 (m) Department for Aging and Independent Living.
- 3 (n) Department for Community Based Services.
- 4 (o) Department for Income Support.
- 5 (p) Department for Family Resource Centers and Volunteer Services.
- 6 (q) Office for Children with Special Health Care Needs.
- 7 (r) Governor's Office of Electronic Health Information.
- 8 (s) Office of Legislative and Regulatory Affairs.
- 9 (9) Finance and Administration Cabinet:
- 10 (a) Office of the Secretary.
- 11 (b) Office of the Inspector General.
- 12 (c) Office of Legislative and Intergovernmental Affairs.
- 13 (d) Office of General Counsel.
- 14 (e) Office of the Controller.
- 15 (f) Office of Administrative Services.
- 16 (g) Office of Policy and Audit.
- 17 (h) Department for Facilities and Support Services.
- 18 (i) Department of Revenue.
- 19 (j) Commonwealth Office of Technology.
- 20 (k) State Property and Buildings Commission.
- 21 (l) Office of Equal Employment Opportunity and Contract Compliance.
- 22 (m) Kentucky Employees Retirement Systems.
- 23 (n) Commonwealth Credit Union.
- 24 (o) State Investment Commission.
- 25 (p) Kentucky Housing Corporation.
- 26 (q) Kentucky Local Correctional Facilities Construction Authority.
- 27 (r) Kentucky Turnpike Authority.

- 1 (s) Historic Properties Advisory Commission.
- 2 (t) Kentucky Tobacco Settlement Trust Corporation.
- 3 (u) Kentucky Higher Education Assistance Authority.
- 4 (v) Kentucky River Authority.
- 5 (w) Kentucky Teachers' Retirement System Board of Trustees.
- 6 (x) Executive Branch Ethics Commission.
- 7 (10) Tourism, Arts and Heritage Cabinet:
- 8 (a) Kentucky Department of Tourism.
- 9 1. Division of Tourism Services.
- 10 2. Division of Marketing and Administration.
- 11 3. Division of Communications and Promotions.
- 12 (b) Kentucky Department of Parks.
- 13 1. Division of Information Technology.
- 14 2. Division of Human Resources.
- 15 3. Division of Financial Operations.
- 16 4. Division of Facilities Management.
- 17 5. Division of Facilities Maintenance.
- 18 6. Division of Customer Services.
- 19 7. Division of Recreation.
- 20 8. Division of Golf Courses.
- 21 9. Division of Food Services.
- 22 10. Division of Rangers.
- 23 11. Division of Resort Parks.
- 24 12. Division of Recreational Parks and Historic Sites.
- 25 (c) Department of Fish and Wildlife Resources.
- 26 1. Division of Law Enforcement.
- 27 2. Division of Administrative Services.

- 1 3. Division of Engineering, Infrastructure, and Technology.
- 2 4. Division of Fisheries.
- 3 5. Division of Information and Education.
- 4 6. Division of Wildlife.
- 5 7. Division of Marketing.
- 6 (d) Kentucky Horse Park.
 - 7 1. Division of Support Services.
 - 8 2. Division of Buildings and Grounds.
 - 9 3. Division of Operational Services.
- 10 (e) Kentucky State Fair Board.
 - 11 1. Office of Administrative and Information Technology Services.
 - 12 2. Office of Human Resources and Access Control.
 - 13 3. Division of Expositions.
 - 14 4. Division of Kentucky Exposition Center Operations.
 - 15 5. Division of Kentucky International Convention Center.
 - 16 6. Division of Public Relations and Media.
 - 17 7. Division of Venue Services.
 - 18 8. Division of Personnel Management and Staff Development.
 - 19 9. Division of Sales.
 - 20 10. Division of Security and Traffic Control.
 - 21 11. Division of Information Technology.
 - 22 12. Division of the Louisville Arena.
 - 23 13. Division of Fiscal and Contract Management.
 - 24 14. Division of Access Control.
- 25 (f) Office of the Secretary.
 - 26 1. Office of Finance.
 - 27 2. Office of Government Relations and Administration.

- 1 3. Office of Film and Tourism Development.
- 2 (g) Office of Legal Affairs.
- 3 (h) Office of Human Resources.
- 4 (i) Office of Public Affairs and Constituent Services.
- 5 (j) Office of Arts and Cultural Heritage.
- 6 (k) Kentucky African-American Heritage Commission.
- 7 (l) Kentucky Foundation for the Arts.
- 8 (m) Kentucky Humanities Council.
- 9 (n) Kentucky Heritage Council.
- 10 (o) Kentucky Arts Council.
- 11 (p) Kentucky Historical Society.
- 12 1. Division of Museums.
- 13 2. Division of Oral History and Educational Outreach.
- 14 3. Division of Research and Publications.
- 15 4. Division of Administration.
- 16 (q) Kentucky Center for the Arts.
- 17 1. Division of Governor's School for the Arts.
- 18 (r) Kentucky Artisans Center at Berea.
- 19 (s) Northern Kentucky Convention Center.
- 20 (t) Eastern Kentucky Exposition Center.
- 21 (11) Personnel Cabinet:
- 22 (a) Office of the Secretary.
- 23 (b) Department of Human Resources Administration.
- 24 (c) Office of Employee Relations.
- 25 (d) Kentucky Public Employees Deferred Compensation Authority.
- 26 (e) Office of Administrative Services.
- 27 (f) Office of Legal Services.

- 1 (g) Governmental Services Center.
- 2 (h) Department of Employee Insurance.
- 3 (i) Office of Diversity, Equality, and Training.
- 4 (j) Office of Public Affairs.

5 III. Other departments headed by appointed officers:

- 6 (1) Council on Postsecondary Education.
- 7 (2) Department of Military Affairs.
- 8 (3) Department for Local Government.
- 9 (4) Kentucky Commission on Human Rights.
- 10 (5) Kentucky Commission on Women.
- 11 (6) Department of Veterans' Affairs.
- 12 (7) Kentucky Commission on Military Affairs.
- 13 (8) Office of Minority Empowerment.
- 14 (9) Governor's Council on Wellness and Physical Activity.
- 15 (10) Kentucky Communications Network Authority.

16 ➔Section 2. KRS 12.023 is amended to read as follows:

17 The following organizational units and administrative bodies shall be attached to the
18 Office of the Governor:

- 19 (1) Council on Postsecondary Education;
- 20 ~~{(a) Foundation for Adult Education;}~~
- 21 (2) Department of Military Affairs;
- 22 (3) Department for Local Government;
- 23 ~~{(4) Early Childhood Advisory Council;}~~
- 24 ~~{(5)}~~ Kentucky Commission on Human Rights;
- 25 (5)~~{(6)}~~ Kentucky Commission on Women;
- 26 (6)~~{(7)}~~ Kentucky Commission on Military Affairs;
- 27 (7)~~{(8)}~~ Agricultural Development Board;

1 ~~(8)~~~~(9)~~ Kentucky Agricultural Finance Corporation;

2 ~~(9)~~~~(10)~~ Office of Minority Empowerment;

3 (a) The Martin Luther King Commission;

4 ~~(10)~~~~(11)~~ Office of Homeland Security; and

5 ~~(11)~~~~(12)~~ Kentucky Communications Network Authority.

6 ➔Section 3. KRS 14A.7-030 is amended to read as follows:

7 (1) An entity administratively dissolved under KRS 14A.7-020 or predecessor law may
8 apply to the Secretary of State for reinstatement at any time after the effective date
9 of dissolution. The application shall:

10 (a) Recite the name of the entity and the effective date of its administrative
11 dissolution;

12 (b) State that the ground or grounds for dissolution either did not exist or have
13 been eliminated;

14 (c) State that the entity's name satisfies the requirements of KRS 14A.3-010;

15 (d) Contain a certificate from the Department of Revenue reciting that all taxes
16 owed by the entity have been paid;

17 (e) Contain a representation that the entity has taken no steps to wind up and
18 liquidate its business and affairs and notify claimants;

19 (f) If a business corporation, contain a certificate from the ~~Office~~~~Division~~ of
20 Unemployment Insurance in the Department for Workforce Investment
21 reciting that all employer contributions, interest, penalties, and service
22 capacity upgrade fund assessments have been paid; and

23 (g) Be accompanied by the reinstatement penalty and the current fee for filing
24 each delinquent annual report as provided for in this chapter.

25 (2) If the Secretary of State determines that the application satisfies the requirement of
26 subsection (1) of this section, he or she shall cancel the certificate of dissolution and
27 prepare a certificate of existence that recites his or her determination and the

1 effective date of reinstatement, file the original of the certificate, and notify the
2 entity of that filing, which notification may be accomplished electronically.

3 (3) When the reinstatement is effective:

4 (a) It shall relate back to and take effect as of the effective date of the
5 administrative dissolution:

6 (b) The entity shall continue carrying on its business as if the administrative
7 dissolution or revocation had never occurred; and

8 (c) The liability of any agent shall be determined as if the administrative
9 dissolution or revocation had never occurred.

10 (4) Notwithstanding any other provision to the contrary, any entity which was
11 administratively dissolved and has taken the action necessary to wind up and
12 liquidate its business and affairs and notify claimants shall be prohibited from
13 reinstatement.

14 ➔Section 4. KRS 41.410 is amended to read as follows:

15 (1) The Commonwealth Council on Developmental Disabilities is created within the
16 Department of the Treasury.

17 (2) The Commonwealth Council on Developmental Disabilities is established to
18 comply with the requirements of the Developmental Disabilities Act of 1984 and
19 any subsequent amendment to that act.

20 (3) The members of the Commonwealth Council on Developmental Disabilities shall
21 be appointed by the Governor to serve as advocates for persons with developmental
22 disabilities. The council shall be composed of twenty-six (26) members.

23 (a) Ten (10) members shall be representatives of: the principal state agencies
24 administering funds provided under the Rehabilitation Act of 1973 as
25 amended; the state agency that administers funds provided under the
26 Individuals with Disabilities Education Act (IDEA); the state agency that
27 administers funds provided under the Older Americans Act of 1965 as

1 amended; the single state agency designated by the Governor for
2 administration of Title XIX of the Social Security Act for persons with
3 developmental disabilities; higher education training facilities, each
4 university-affiliated program or satellite center in the Commonwealth; and the
5 protection and advocacy system established under Public Law 101-496. These
6 members shall represent the following:

- 7 1. Office of Vocational Rehabilitation;
- 8 2. Division of~~Office for the~~ Blind Services within the Office of
9 Vocational Rehabilitation;
- 10 3. Division of Exceptional Children, within the Department of Education;
- 11 4. Department for Aging and Independent Living;
- 12 5. Department for Medicaid Services;
- 13 6. Department of Public Advocacy, Protection and Advocacy Division;
- 14 7. University-affiliated programs;
- 15 8. Local and nongovernmental agencies and private nonprofit groups
16 concerned with services for persons with developmental disabilities;
- 17 9. Department for Behavioral Health, Developmental and Intellectual
18 Disabilities; and
- 19 10. Department for Public Health, Division of Maternal and Child Health.

- 20 (b) At least sixty percent (60%) of the members of the council shall be composed
21 of persons with developmental disabilities or the parents or guardians of
22 persons, or immediate relatives or guardians of persons with mentally
23 impairing developmental disabilities, who are not managing employees or
24 persons with ownership or controlling interest in any other entity that receives
25 funds or provides services under the Developmental Disabilities Act of 1984
26 as amended and who are not employees of a state agency that receives funds
27 or provides services under this section. Of these members, five (5) members

1 shall be persons with developmental disabilities, and five (5) members shall
2 be parents or guardians of children with developmental disabilities or
3 immediate relatives or guardians of adults with mentally impairing
4 developmental disabilities who cannot advocate for themselves. Six (6)
5 members shall be a combination of individuals in these two (2) groups, and at
6 least one (1) of these members shall be an immediate relative or guardian of
7 an institutionalized or previously institutionalized person with a
8 developmental disability or an individual with a developmental disability who
9 resides in an institution or who previously resided in an institution.

10 (c) Members not representing principal state agencies shall be appointed for a
11 term of three (3) years. Members shall serve no more than two (2) consecutive
12 three (3) year terms. Members shall serve until their successors are appointed
13 or until they are removed for cause.

14 (d) The council shall elect its own chair, adopt bylaws, and operate in accordance
15 with its bylaws. Members of the council who are not state employees shall be
16 reimbursed for necessary and actual expenses. The Department of the
17 Treasury shall provide personnel adequate to ensure that the council has the
18 capacity to fulfill its responsibilities. The council shall be headed by an
19 executive director. If the executive director position becomes vacant, the
20 council shall be responsible for the recruitment and hiring of a new executive
21 director.

22 (4) The Commonwealth Council on Developmental Disabilities shall:

23 (a) Develop and implement the state plan as required by Part B of the
24 Developmental Disabilities Act of 1984, as amended, with a goal of
25 development of a coordinated consumer and family centered focus and
26 direction, including the specification of priority services required by that plan;

27 (b) Monitor, review, and evaluate, not less often than annually, the

1 implementation and effectiveness of the state plan in meeting the plan's
2 objectives;

3 (c) To the maximum extent feasible, review and comment on all state plans that
4 relate to persons with developmental disabilities;

5 (d) Submit to the Department of the Treasury and the Secretary of the United
6 States Department of Health and Human Services any periodic reports on its
7 activities as required by the United States Department of Health and Human
8 Services and keep records and afford access as the Department of the Treasury
9 finds necessary to verify the reports;

10 (e) Serve as an advocate for individuals with developmental disabilities and
11 conduct programs, projects, and activities that promote systematic change and
12 capacity building;

13 (f) Examine, not less than once every five (5) years, the provision of and need for
14 federal and state priority areas to address, on a statewide and comprehensive
15 basis, urgent needs for services, supports, and other assistance for individuals
16 with developmental disabilities and their families; and

17 (g) Prepare, approve, and implement a budget that includes amounts paid to the
18 state under the Developmental Disabilities Act of 1984, as amended, to fund
19 all programs, projects, and activities under that Act.

20 ➔Section 5. KRS 42.4592 is amended to read as follows:

21 (1) Moneys remaining in the local government economic development fund following
22 the transfer of moneys to the local government economic assistance fund provided
23 for in KRS 42.4585 shall be allocated as follows:

24 (a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal
25 producing county on the basis of the ratio of total coal severed in the current
26 and preceding four (4) years in each respective county to the total coal severed
27 statewide in the current and four (4) preceding years;

1 (b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to
 2 each coal-producing county on the basis of the following factors, which shall
 3 be computed for the current and four (4) preceding years, and which shall be
 4 equally weighted:

- 5 1. Percentage of employment in mining in relation to total employment in
 6 the respective county;
- 7 2. Percentage of earnings from mining in relation to total earnings in the
 8 respective county; and
- 9 3. Surplus labor rate; and

10 (c) Thirty-three and one-third percent (33-1/3%) shall be reserved for expenditure
 11 for industrial development projects benefiting two (2) or more coal-producing
 12 counties. For purposes of this paragraph, "coal-producing county" shall mean
 13 a county which has produced coal in the current or any one of the four (4)
 14 preceding years.

15 (2) (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of
 16 employment in mining" and "percentage of earnings from mining" shall be
 17 provided by the Department of Workforce Investment~~{Office of Employment~~
 18 ~~and Training}~~ in the Education and Workforce Development Cabinet, and
 19 "surplus labor rate" shall be the rate published for the latest available five (5)
 20 year period by the Department of Workforce Investment~~{Office of~~
 21 ~~Employment and Training}~~ as provided in paragraph (b) of this subsection.

22 (b) 1. Each year the Department of Workforce Investment~~{Office of~~
 23 ~~Employment and Training}~~ shall estimate surplus labor for each county
 24 and for the Commonwealth and shall annually publish an estimate of the
 25 surplus labor rate for each county and the Commonwealth.

26 2. The estimate of surplus labor for each county and for the
 27 Commonwealth shall be made using the best practical method available

1 at the time the estimates are made. In determining the method to be
2 adopted, the Department of Workforce Investment~~Office of~~
3 ~~Employment and Training~~ may consult with knowledgeable
4 individuals, including but not limited to the Office of the United States
5 Bureau of Labor Statistics, state and national researchers, state and local
6 officials, and staff of the Legislative Research Commission. The
7 description of the method used to estimate surplus labor shall be
8 reported in each annual publication provided for in subparagraph 1. of
9 this paragraph.

10 3. For purposes of this section, "surplus labor" means the total number of
11 residents who can be classified as unemployed or as discouraged
12 workers, and "surplus labor rate" means the percentage of the potential
13 civilian labor force which is surplus labor.

14 (3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1)
15 of this section shall retain their identity with respect to the county to which they are
16 attributable, and a separate accounting of available moneys within the fund shall be
17 maintained for the respective counties. Accounting for funds allocated under the
18 provisions of this section shall be by the Department for Local Government.

19 ➔Section 6. KRS 45A.470 is amended to read as follows:

20 (1) Notwithstanding any provision of this chapter to the contrary, all governmental
21 bodies and political subdivisions of this state shall, when purchasing commodities
22 or services, give first preference to the products made by the Department of
23 Corrections, Division of Prison Industries, as required by KRS 197.210. Second
24 preference shall be given to any products produced by Kentucky Industries for the
25 Blind, Incorporated, or any other nonprofit corporation that furthers the purposes of
26 KRS Chapter 163, and agencies of individuals with severe disabilities as described
27 in KRS 45A.465.

- 1 (2) The Finance and Administration Cabinet shall make a list of commodities and
2 services provided by these agencies and organizations available to all governmental
3 bodies and political subdivisions. The list shall identify in detail the commodity or
4 service the agency or organization may supply and the price.
- 5 (3) The Finance and Administration Cabinet shall annually determine the current price
6 range for the commodities and services offered from its experience in purchasing
7 these commodities or services on the open market. The prices quoted by these
8 agencies or organizations shall not exceed the current price range.
- 9 (4) The **Office of Vocational Rehabilitation**~~[Office for the Blind]~~ within the Education
10 and Workforce Development Cabinet and qualified agencies for individuals with
11 severe disabilities shall annually cause to be made available to the Finance and
12 Administration Cabinet, lists of the products or services available.
- 13 (5) If two (2) or more of the agencies or qualified nonprofit organizations wish to
14 supply identical commodities or services, the Finance and Administration Cabinet
15 shall conduct negotiations with the parties to determine which shall be awarded the
16 contract. The decision of the Finance and Administration Cabinet shall be based
17 upon quality of the commodity or service and the ability of the respective agencies
18 to supply the commodity or service within the requested delivery time.
- 19 ➔Section 7. KRS 132.193 is amended to read as follows:
- 20 (1) Leased personal property exempt from taxation when held by a natural person,
21 association, or corporation in connection with a business conducted for profit, shall
22 be subject to taxation in the same amount and to the same extent as though the
23 lessee were the owner of the property, except personal property used in vending
24 stands operated by blind persons under the auspices of the **Division of Kentucky**
25 **Business Enterprise**~~[Office for the Blind]~~.
- 26 (2) Taxes shall be assessed to lessees of exempt personal property and collected in the
27 same manner as taxes assessed to owners of other personal property, except that

1 taxes due under this section shall not become a lien against the personal property.
2 When due, such taxes shall constitute a debt due from the lessee to the state, county,
3 school district, special district, city, urban-county government, charter county,
4 consolidated local government, or unified local government for which the taxes
5 were assessed and if unpaid shall be recoverable by the state as provided in KRS
6 Chapter 134.

7 ➔Section 8. KRS 132.195 is amended to read as follows:

8 (1) When any real or personal property which is exempt from taxation is leased or
9 possession is otherwise transferred to a natural person, association, partnership, or
10 corporation in connection with a business conducted for profit, the leasehold or
11 other interest in the property shall be subject to state and local taxation at the rate
12 applicable to real or personal property levied by each taxing jurisdiction.

13 (2) Subsection (1) of this section shall not apply to interests in:

14 (a) Industrial buildings, as defined under KRS 103.200, owned and financed by a
15 tax-exempt governmental unit or tax-exempt statutory authority under the
16 provisions of KRS Chapter 103, the taxation of which is provided for under
17 the provisions of KRS 132.020 and 132.200;

18 (b) Federal property for which payments are made in lieu of taxes in amounts
19 equivalent to taxes which might otherwise be lawfully assessed;

20 (c) Property of any state-supported educational institution;

21 (d) Vending stand locations and facilities operated by blind persons under the
22 auspices of the *Division of Kentucky Business Enterprise*~~Office for the~~
23 ~~Blind~~, regardless of whether the property is owned by the federal, state, or a
24 local government;

25 (e) Property of any free public library; or

26 (f) Property in Fayette County, Kentucky, administered by the Department of
27 Military Affairs, Bluegrass Station Division.

1 (3) Taxes shall be assessed to lessees of exempt real or personal property and collected
2 in the same manner as taxes assessed to owners of other real or personal property,
3 except that taxes due under this section shall not become a lien against the property.
4 When due, such taxes shall constitute a debt due from the lessee to the state, county,
5 school district, special district, or urban-county government for which the taxes
6 were assessed and if unpaid shall be recoverable by the state as provided in KRS
7 Chapter 134.

8 ➔Section 9. KRS 141.0205 is amended to read as follows:

9 If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax
10 imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of
11 the credits shall be determined as follows:

12 (1) The nonrefundable business incentive credits against the tax imposed by KRS
13 141.020 shall be taken in the following order:

- 14 (a) The limited liability entity tax credit permitted by KRS 141.0401;
- 15 (b) The economic development credits computed under KRS 141.347, 141.381,
16 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and
17 154.12-2088;
- 18 (c) The qualified farming operation credit permitted by KRS 141.412;
- 19 (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 20 (e) The health insurance credit permitted by KRS 141.062;
- 21 (f) The tax paid to other states credit permitted by KRS 141.070;
- 22 (g) The credit for hiring the unemployed permitted by KRS 141.065;
- 23 (h) The recycling or composting equipment credit permitted by KRS 141.390;
- 24 (i) The tax credit for cash contributions in investment funds permitted by KRS
25 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
26 154.20-258;
- 27 (j) The research facilities credit permitted by KRS 141.395;

- 1 (k) The employer High School Equivalency Diploma program incentive credit
2 permitted under Section 39 of this Act~~[KRS 164.0062]~~;
- 3 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 4 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 5 (n) The clean coal incentive credit permitted by KRS 141.428;
- 6 (o) The ethanol credit permitted by KRS 141.4242;
- 7 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 8 (q) The energy efficiency credits permitted by KRS 141.436;
- 9 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 10 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 11 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 12 (u) The distilled spirits credit permitted by KRS 141.389;
- 13 (v) The angel investor credit permitted by KRS 141.396;
- 14 (w) The film industry credit permitted by KRS 141.383 for applications approved
15 on or after April 27, 2018; and
- 16 (x) The inventory credit permitted by KRS 141.408.
- 17 (2) After the application of the nonrefundable credits in subsection (1) of this section,
18 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
19 shall be taken in the following order:
- 20 (a) The individual credits permitted by KRS 141.020(3);
- 21 (b) The credit permitted by KRS 141.066;
- 22 (c) The tuition credit permitted by KRS 141.069; and
- 23 (d) The household and dependent care credit permitted by KRS 141.067.
- 24 (3) After the application of the nonrefundable credits provided for in subsection (2) of
25 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
26 taken in the following order:
- 27 (a) The individual withholding tax credit permitted by KRS 141.350;

- 1 (b) The individual estimated tax payment credit permitted by KRS 141.305;
- 2 (c) The certified rehabilitation credit permitted by KRS 171.3961 and
3 171.397(1)(b); and
- 4 (d) The film industry tax credit permitted by KRS 141.383 for applications
5 approved prior to April 27, 2018.
- 6 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
7 tax imposed by KRS 141.040.
- 8 (5) The following nonrefundable credits shall be applied against the sum of the tax
9 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
10 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 11 (a) The economic development credits computed under KRS 141.347, 141.381,
12 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and
13 154.12-2088;
- 14 (b) The qualified farming operation credit permitted by KRS 141.412;
- 15 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 16 (d) The health insurance credit permitted by KRS 141.062;
- 17 (e) The unemployment credit permitted by KRS 141.065;
- 18 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 19 (g) The coal conversion credit permitted by KRS 141.041;
- 20 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
21 ending prior to January 1, 2008;
- 22 (i) The tax credit for cash contributions to investment funds permitted by KRS
23 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
24 154.20-258;
- 25 (j) The research facilities credit permitted by KRS 141.395;
- 26 (k) The employer High School Equivalency Diploma program incentive credit
27 permitted by Section 39 of this Act ~~[KRS 164.0062]~~;

- 1 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 2 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 3 (n) The clean coal incentive credit permitted by KRS 141.428;
- 4 (o) The ethanol credit permitted by KRS 141.4242;
- 5 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 6 (q) The energy efficiency credits permitted by KRS 141.436;
- 7 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
- 8 permitted by KRS 141.437;
- 9 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 10 (t) The railroad expansion credit permitted by KRS 141.386;
- 11 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 12 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 13 (w) The distilled spirits credit permitted by KRS 141.389;
- 14 (x) The film industry credit permitted by KRS 141.383 for applications approved
- 15 on or after April 27, 2018; and
- 16 (y) The inventory credit permitted by KRS 141.408.
- 17 (6) After the application of the nonrefundable credits in subsection (5) of this section,
- 18 the refundable credits shall be taken in the following order:
- 19 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 20 (b) The certified rehabilitation credit permitted by KRS 171.3961 and
- 21 171.397(1)(b); and
- 22 (c) The film industry tax credit permitted by KRS 141.383 for applications
- 23 approved prior to April 27, 2018.
- 24 ➔Section 10. KRS 141.065 is amended to read as follows:
- 25 (1) For the purposes of this section, "code" or "Internal Revenue Code" means the
- 26 Internal Revenue Code in effect as of December 31, 1981.
- 27 (2) There shall be allowed as a credit for any taxpayer against the tax imposed by KRS

1 141.020 or 141.040 and 141.0401 for any taxable year, with the ordering of the
2 credits as provided in KRS 141.0205, an amount equal to one hundred dollars
3 (\$100) for each person hired by the taxpayer, if that person has been classified as
4 unemployed by the Office of Unemployment Insurance~~Employment and Training~~
5 of the Department of Workforce Investment in the Education and Workforce
6 Development Cabinet and has been so classified for at least sixty (60) days prior to
7 his employment by the taxpayer, and if further that person has remained in the
8 employ of the taxpayer for at least one hundred eighty (180) consecutive days
9 during the taxable year in which the taxpayer claims the credit.

10 (3) No credit shall be allowed to any taxpayer for any person hired under any of the
11 following circumstances:

12 (a) A person for whom the taxpayer receives federally funded payments for on-
13 the-job training;

14 (b) For any person who bears any of the relationships to the taxpayer described in
15 paragraphs (1) through (8) of Section 152(a) of the Internal Revenue Code, or,
16 if the taxpayer is a corporation, to an individual who owns, directly or
17 indirectly, more than fifty percent (50%) in value of the outstanding stock of
18 the corporation as determined with the application of Section 267(c) of the
19 code;

20 (c) If the taxpayer is an estate or trust, to any person who is a grantor, beneficiary,
21 or fiduciary of the estate or trust, or is an individual who bears any of the
22 relationships described in paragraphs (1) through (8) of Section 152(a) of the
23 code to a grantor, beneficiary, or fiduciary of the estate or trust; or

24 (d) To any person who is a dependent of the taxpayer as described in code Section
25 152(a)(9), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or
26 fiduciary of the estate or trust.

27 (4) For purposes of this section, all employees of all corporations which are members

1 of the same controlled group of corporations shall be treated as employed by a
2 single employer. In no instance shall the credit, if any, allowable by subsection (2)
3 of this section for any employee qualified thereunder be claimed more than once for
4 any taxable year by such a controlled group of corporations. For purposes of this
5 subsection, the term "controlled group of corporations" has the meaning given to
6 that term by code Section 1563(a), except that "more than fifty percent (50%)" shall
7 be substituted for "at least eighty percent (80%)" each place it appears in code
8 Section 1563(a)(1), and the determination shall be made without regard to
9 subsections (a)(4) and (e)(3)(c) of code Section 1563.

10 (5) For purposes of this section, all employees of trades or businesses (whether or not
11 incorporated) which are under common control shall be treated as employed by a
12 single employer, and in no instance shall the credit, if any, allowable by subsection
13 (2) of this section for any employee qualified thereunder be claimed more than once
14 for any taxable year.

15 (6) No credit shall be allowed under subsection (2) of this section to any organization
16 which is exempt from income tax by this chapter.

17 (7) In the case of a pass-through entity, the amount of the credit determined under this
18 section for any taxable year shall be applied at the entity level against the limited
19 liability entity tax imposed by KRS 141.0401 and shall also be apportioned pro rata
20 among the members, partners, or shareholders of the limited liability entity on the
21 last day of the taxable year, and any person to whom an amount is so apportioned
22 shall be allowed, subject to code Section 53, a credit under subsection (2) of this
23 section for that amount.

24 (8) In the case of an estate or trust, the amount of the credit determined under this
25 section for any taxable year shall be apportioned between the estate or trust and the
26 beneficiaries on the basis of income of the estate or trust allocable to each, and any
27 beneficiary to whom any amount has been apportioned under this subsection shall

1 be allowed, subject to code Section 53, a credit under subsection (2) of this section
2 for that amount.

3 (9) In no event shall the credit allowed, pursuant to this section, for any taxable year
4 exceed the tax liability of the taxpayer for the taxable year.

5 ➔Section 11. KRS 151B.020 is amended to read as follows:

6 (1) The Education and Workforce Development Cabinet is hereby created, which shall
7 constitute a cabinet of the state government within the meaning of KRS Chapter 12.
8 The cabinet shall consist of a secretary and those administrative bodies and
9 employees as provided by law.

10 (2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the
11 major organizational units listed below, units listed in KRS 12.020, and other
12 departments, divisions, and sections as are from time to time deemed necessary for
13 the proper and efficient operation of the cabinet:

14 (a) The Department of Workforce Investment, which is hereby created and
15 established within the Education and Workforce Development Cabinet. The
16 department shall be directed and managed by a commissioner who shall be
17 appointed by the Governor under the provisions of KRS 12.040, and who shall
18 report to the secretary of the Education and Workforce Development Cabinet.

19 The department shall be composed of the following offices:

20 1. The Office of Vocational Rehabilitation, which is created by KRS
21 151B.185;

22 2. ~~The Office for the Blind established by KRS 163.470; and~~

23 ~~3. The Office of Unemployment Insurance; ~~Employment and Training,~~~~
24 ~~which is created by KRS 151B.280.]~~

25 **3. The Office of Employer and Apprenticeship Services;**

26 **4. The Office of Career Development;**

27 **5. The Office of Adult Education, which is created by Section 45 of this**

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Act; and

~~6.(b)~~ The Unemployment Insurance Commission established by KRS
341.110; **and**

**(b) The Early Childhood Advisory Council is attached to The Office of the
Secretary for administrative purposes only.**

- (3) The executive officer of the cabinet shall be the secretary of the Education and Workforce Development Cabinet. The secretary shall be appointed by the Governor pursuant to KRS 12.255 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. The secretary shall have the authority to require coordination and nonduplication of services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq. The secretary shall have the authority to mandate fiscal responsibility dispute resolution procedures among state organizational units for services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. secs. 9201 et seq.
- (4) The secretary of the Education and Workforce Development Cabinet and the secretary's designated representatives, in the discharge of the duties of the secretary, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

1 (5) The secretary of the Education and Workforce Development Cabinet may delegate
2 any duties of the secretary's office to employees of the cabinet as he or she deems
3 necessary and appropriate, unless otherwise prohibited by statute.

4 (6) The secretary of the Education and Workforce Development Cabinet shall
5 promulgate, administer, and enforce administrative regulations that are necessary to
6 implement programs mandated by federal law, or to qualify for the receipt of federal
7 funds, and that are necessary to cooperate with other state and federal agencies for
8 the proper administration of the cabinet and its programs except for programs and
9 federal funds within the authority of the Department of Education, the Kentucky
10 Board of Education, and the Education Professional Standards Board.

11 ➔Section 12. KRS 151B.185 is amended to read as follows:

12 (1) The Office of Vocational Rehabilitation is hereby created within the Education and
13 Workforce Development Cabinet, Department of Workforce Investment. The office
14 shall consist of an executive director and those administrative bodies and employees
15 provided or appointed pursuant to law. The office shall be composed of the
16 Division of Kentucky Business Enterprise~~[Program Services]~~, the Division of
17 Blind Services, the Division of Field Services, and the Division of the Carl D.
18 Perkins Vocational Training Center. Each division shall be headed by a director
19 appointed by the secretary of the Education and Workforce Development Cabinet
20 under the provisions of KRS 12.050, and shall be composed of organizational
21 entities as deemed appropriate by the secretary of the Education and Workforce
22 Development Cabinet.

23 (2) The Office of Vocational Rehabilitation shall have such powers and duties as
24 contained in KRS 151B.180 to 151B.210 and KRS 163.450 to 163.480 and such
25 other functions as may be established by administrative regulation.

26 (3) The office shall be the sole state agency for the purpose of developing and
27 approving state plans required by state or federal laws and regulations as

1 prerequisites to receiving federal funds for vocational rehabilitation.

2 (4) The chief executive officer of the office shall be the executive director of the Office
3 of Vocational Rehabilitation. The executive director shall be appointed by the
4 secretary of the Education and Workforce Development Cabinet under the
5 provisions of KRS 12.050. The executive director shall have experience in
6 vocational rehabilitation and supervision and shall have general supervision and
7 direction over all functions of the office and its employees, and shall be responsible
8 for carrying out the programs and policies of the office.

9 (5) Except as otherwise provided, the office shall be the state agency responsible for all
10 rehabilitation services and for other services as deemed necessary. The office shall
11 be the agency authorized to expend all state and federal funds designated for
12 rehabilitation services. The Office of the Secretary of the Education and Workforce
13 Development Cabinet is authorized as the state agency to receive all state and
14 federal funds and gifts and bequests for the benefit of rehabilitation services.

15 (6) Employees under the jurisdiction of the Office of Vocational Rehabilitation who are
16 members of a state retirement system as of June 30, 1990, shall remain in their
17 respective retirement systems.

18 ➔Section 13. KRS 151B.245 is amended to read as follows:

19 (1) The Statewide Council for Vocational Rehabilitation is hereby created within the
20 Office of Vocational Rehabilitation to accomplish the purposes and functions
21 enumerated in 29 U.S.C. sec. 701 et seq~~[725 (Title I, Part A, Section 105 of the~~
22 ~~Rehabilitation Act Amendments of 1998)]~~. Members of the council shall be
23 appointed by the Governor pursuant to the guidelines in this section. When
24 appointing members of the council, the Governor shall consider, to the greatest
25 extent practicable, the extent to which minority populations are represented on
26 the council~~from recommendations submitted by the Office of Vocational~~
27 ~~Rehabilitation consistent with the federal mandate to include a majority of~~

1 individuals with disabilities not employed by the office, as well as representatives of
2 specified organizations, service providers, and advocacy groups. The compensation,
3 qualifications, and terms of service of the council shall conform to the federal law].

4 (2) The Statewide Council for Vocational Rehabilitation shall consist of the
5 following members which shall serve for the following staggered initial terms but
6 their successors shall serve for a term of three (3) years:

7 (a) One (1) representative of the Statewide Independent Living Council, who
8 shall be the chair or other designee of the Statewide Independent Living
9 Council and who shall serve an initial term of two (2) years;

10 (b) One (1) representative of a parent training and information center
11 established pursuant to Section 682(a) of the Individuals with Disabilities
12 Education Act who shall serve an initial term of one (1) year;

13 (c) One (1) representative of the Client Assistance Program established under
14 34 C.F.R. pt. 370, who shall be designated by the employee of the Education
15 and Workforce Development Cabinet responsible for overseeing the Client
16 Assistance Program and who shall serve an initial term of one (1) year;

17 (d) One (1) representative of community rehabilitation program service
18 providers who shall serve an initial term of three (3) years;

19 (e) Four (4) representatives of business, industry, and labor who shall each
20 serve an initial term of three (3) years;

21 (f) One (1) representative of a disability group that includes individuals with
22 physical, cognitive, sensory, and mental disabilities who shall serve an
23 initial term of two (2) years;

24 (g) One (1) representative of a disability group that includes individuals with
25 disabilities who have difficulty representing themselves or are unable due to
26 their disabilities to represent themselves who shall serve an initial term of
27 two (2) years;

- 1 (h) One (1) current or former applicant for or recipient of vocational
 2 rehabilitation services who shall serve for an initial term of one (1) year;
- 3 (i) One (1) representative of the state educational agency responsible for the
 4 public education of students with disabilities who are eligible to receive
 5 services under Part B of the Individuals with Disabilities Education Act
 6 who shall serve for an initial term of one (1) year;
- 7 (j) One (1) representative of the Kentucky Workforce Investment Board who
 8 shall serve an initial term of one (1) year;
- 9 (k) One (1) representative from the Kentucky Council for the Blind who shall
 10 serve an initial term of three (3) years;
- 11 (l) One (1) representative from the National Federation for the Blind from
 12 Kentucky who shall serve an initial term of three (3) years;
- 13 (m) One (1) representative from the Bluegrass Council of the Blind who shall
 14 serve an initial term of three (3) years;
- 15 (n) One (1) representative from the State Committee of Blind Vendors who
 16 shall serve an initial term of one (1) year;
- 17 (o) One (1) qualified vocational rehabilitation counselor with knowledge of and
 18 experience with vocational rehabilitation programs who serves as an ex
 19 officio, nonvoting member of the council if employed by the designated state
 20 agency and who shall serve an initial term of two (2) years; and
- 21 (p) The executive director of the Office of Vocational Rehabilitation as an ex
 22 officio, nonvoting member of the council.

23 ~~{(a) Except as provided in paragraph (b) of this subsection, any vacancy occurring~~
 24 ~~in the membership of the Statewide Council for Vocational Rehabilitation~~
 25 ~~shall be filled in the same manner as the original appointment. The vacancy~~
 26 ~~shall not affect the power of the remaining members of the council.~~

27 ~~(b) The Governor may delegate the authority to fill a vacancy to the remaining~~

1 voting members of the council.}]

- 2 (3) *The members of the council shall not be compensated for their service on the*
3 *council. Council members shall be reimbursed for their necessary expenses*
4 *pursuant to KRS 12.029.*[Each member of the Statewide Council for Vocational
5 Rehabilitation may receive a per diem of one hundred dollars (\$100), not to exceed
6 six hundred dollars (\$600) annually, for each regular or special meeting attended if
7 the member is not employed or must forfeit wages from other employment. Each
8 member may have travel expenses approved at the established state rate and
9 expenses reimbursed at the established state agency rate for services such as
10 personal assistance, child care, and drivers for attendance at council meetings, and
11 in the performance of duties authorized by the Statewide Council for Vocational
12 Rehabilitation. The per diem and expenses shall be paid out of the federal funds
13 appropriated under Title I, Part A, of the Rehabilitation Act Amendments of 1998,
14 Pub. L. 105-220.]
- 15 (4) *Including the initial appointment, and with the exception of the individuals set*
16 *out in paragraphs (c) and (p) of subsection (2) of this section, members shall*
17 *serve no more than two (2) successive terms. A member appointed to fill a*
18 *vacancy occurring prior to the end of the term for which the predecessor was*
19 *appointed shall be appointed for the remainder of the predecessor's term.*
- 20 (5) *A chair shall be selected by the members of the council from among the voting*
21 *members of the council, subject to the veto power of the Governor.*
- 22 (6) *No member of the council shall cast a vote on any matter that would provide*
23 *direct financial benefit to the member or the member's organization or otherwise*
24 *give the appearance of a conflict of interest under state law.*
- 25 (7) *A majority of the members of the council shall be individuals with disabilities*
26 *who meet the requirements of 34 C.F.R. sec. 361.5(c)(28) and who are not*
27 *employed by the designated state unit.*

1 **(8) The council shall convene at least four (4) meetings a year in locations**
 2 **determined by the council to be necessary to conduct council business. The**
 3 **meetings shall be publicly announced, open, and accessible to the general public,**
 4 **including individuals with disabilities, unless there is a valid reason for an**
 5 **executive session under the Open Meetings Act, KRS 61.805 to 61.850.**

6 ➔Section 14. KRS 151B.280 is amended to read as follows:

7 (1) The Office of **Unemployment Insurance**~~[Employment and Training]~~ is created and
 8 established within the Department of Workforce Investment within the Education
 9 and Workforce Development Cabinet. The Office of **Unemployment Insurance**
 10 **shall be headed by an executive director appointed by the Governor pursuant to**
 11 **KRS 12.050 who shall report to the commissioner of the Department of**
 12 **Workforce Investment.**~~[Employment and Training shall develop and operate~~
 13 ~~employment development and placement programs, including job recruitment and~~
 14 ~~business liaison functions, employability development and training programs, and~~
 15 ~~job counseling and placement programs of the cabinet. In addition, the office shall~~
 16 ~~develop and operate all programs relating to the unemployment insurance laws of~~
 17 ~~the Commonwealth, including responsibilities relating to hearing and judging~~
 18 ~~unemployment insurance benefit appeals.]~~

19 (2) **The Office of Employer and Apprenticeship Services is created and established**
 20 **within the Department of Workforce Investment within the Education and**
 21 **Workforce Development Cabinet. The Office of Employer and Apprenticeship**
 22 **Services shall be headed by an executive director appointed by the Governor**
 23 **pursuant to KRS 12.050 who shall report to the commissioner of the Department**
 24 **of Workforce Investment.** ~~[The Office of Employment and Training shall be headed~~
 25 ~~by an executive director appointed by the secretary with the approval of the~~
 26 ~~Governor, in accordance with KRS 12.050. The executive director for employment~~
 27 ~~and training shall be a person who, by experience and training in administration and~~

1 management, is qualified to perform the duties of the office. The executive director
 2 for employment and training shall exercise authority over the Office of Employment
 3 and Training under the direction of the commissioner of the Department of
 4 Workforce Investment, and shall fulfill only the responsibilities delegated by the
 5 commissioner.]

6 (3) *The Career Development Office is created and established within the Department*
 7 *of Workforce Investment within the Education and Workforce Development*
 8 *Cabinet. The Career Development Office shall be headed by an executive director*
 9 *appointed by the Governor pursuant to KRS 12.050 who shall report to the*
 10 *commissioner of the Department of Workforce Investment.*

11 (4) (a) *The Office of Adult Education is created and established within the*
 12 *Department of Workforce Investment within the Education and Workforce*
 13 *Development Cabinet. The Office of Adult Education shall be headed by an*
 14 *executive director appointed by the Governor pursuant to KRS 12.050 who*
 15 *shall report to the commissioner of the Department of Workforce*
 16 *Investment.*

17 (b) *All employees of the Office of Adult Education (Kentucky Skills U) shall be*
 18 *unclassified employees.*

19 (5) (a) The secretary of the Education and Workforce Development Cabinet shall
 20 develop and promulgate administrative regulations which protect the
 21 confidential nature of all records and reports of the Office of *Unemployment*
 22 *Insurance, the Career Development Office, and the Office of Employer and*
 23 *Apprenticeship Services* [Employment and Training] which directly or
 24 indirectly identify a client or former client and which ensure that these records
 25 are not disclosed to or by any person except and insofar as:

- 26 1. The person identified shall give his consent; or
- 27 2. Disclosure may be permitted under state or federal law.

1 (b) Notwithstanding any other state statute or administrative regulation to the
2 contrary, any information concerning individual clients or applicants in the
3 possession of the Department of Workforce Investment~~[Office of~~
4 ~~Employment and Training]~~ may be shared with any authorized representative
5 of any other state or local governmental agency, if the agency has a direct,
6 tangible, and legitimate interest in the individual. The agency receiving the
7 information shall assure the confidentiality of all information received. The
8 Department of Workforce Investment~~[Office of Employment and Training]~~
9 may share information concerning a client or applicant with any private or
10 quasi-private agency if:

- 11 1. The agency has an agreement with the cabinet assuring the
12 confidentiality of the information; and
- 13 2. The agency has a direct, tangible, and legitimate interest in the
14 individual.

15 ➔Section 15. KRS 154.10-050 is amended to read as follows:

- 16 (1) The secretary shall be the chief executive officer of the Cabinet for Economic
17 Development and shall possess the professional qualifications appropriate for that
18 office as determined by the board.
- 19 (2) The board shall set the salary of the secretary and up to two (2) additional executive
20 officers of the cabinet as determined by the board, which shall be exempt from state
21 employee salary limitations as set forth in KRS 64.640. No executive officer of the
22 cabinet shall be paid a salary greater than that of the secretary.
- 23 (3) The secretary shall be responsible for the day-to-day operations of the cabinet and
24 shall report and submit on an annual basis implementation plans to the board as
25 provided in KRS 154.10-060; carry out policy and program directives of the board;
26 coordinate programs of the cabinet with all other agencies of state government
27 having economic development responsibilities; hire all other personnel of the

1 cabinet consistent with state law; and carry out all other duties and responsibilities
2 assigned by state law.

3 (4) The secretary shall prepare and submit the proposed budget of the cabinet to the
4 chairman who shall present it to the board for final approval. Upon approval, the
5 board shall submit the proposed budget to the Governor's Office for Policy and
6 Management.

7 (5) The secretary shall be reimbursed for all actual and necessary expenses incurred in
8 the performance of all assigned duties and responsibilities.

9 (6) The secretary shall give highest priority consideration in marketing, targeting, and
10 recruiting new businesses, in expanding existing businesses, and in recommending
11 state economic development loans, grants, and incentive programs administered by
12 the authority, to Kentucky counties which have had an average countywide rate of
13 unemployment of fifteen percent (15%) or greater in the most recent twelve (12)
14 consecutive months for which unemployment figures are available, on the basis of
15 the final unemployment figures calculated by the ~~{Office of Employment and~~
16 ~~Training within the }~~Department of Workforce Investment within the Education and
17 Workforce Development Cabinet.

18 ➔Section 16. KRS 154.12-2084 is amended to read as follows:

19 As used in KRS 154.12-2084 to 154.12-2089, unless the context requires otherwise:

20 (1) "Approved company" means any qualified company seeking to sponsor an
21 occupational upgrade training program or skills upgrade training program for the
22 benefit of one (1) or more of its employees, which is approved by the authority to
23 receive skills training investment credits in accordance with KRS 154.12-2084 to
24 154.12-2089;

25 (2) "Approved costs" means:

26 (a) Fees or salaries required to be paid to instructors who are employees of the
27 approved company, instructors who are full-time, part-time, or adjunct

- 1 instructors with an educational institution, and instructors who are consultants
2 on contract with an approved company in connection with an occupational
3 upgrade training program or skills upgrade training program sponsored by an
4 approved company;
- 5 (b) Administrative fees charged by educational institutions in connection with an
6 occupational upgrade training program or skills upgrade training program
7 sponsored by an approved company and specifically approved by the
8 Bluegrass State Skills Corporation;
- 9 (c) The cost of supplies, materials, and equipment used exclusively in an
10 occupational upgrade training program or skills upgrade training program
11 sponsored by an approved company;
- 12 (d) The cost of leasing a training facility where space is unavailable at an
13 educational institution or at the premises of an approved company in
14 connection with an occupational upgrade training program or skills upgrade
15 training program sponsored by an approved company;
- 16 (e) Employee wages to be paid in connection with an occupational upgrade
17 training program or skills upgrade training program sponsored by an approved
18 company; and
- 19 (f) All other costs of a nature comparable to those described in this subsection;
- 20 (3) "Bluegrass State Skills Corporation" means the Bluegrass State Skills Corporation
21 created by KRS 154.12-205;
- 22 (4) "Commonwealth" means the Commonwealth of Kentucky;
- 23 (5) "Educational institution" means a public or nonpublic secondary or postsecondary
24 institution or an independent provider within the Commonwealth authorized by law
25 to provide a program of skills training or education beyond the secondary school
26 level or to adult persons without a high school diploma or its equivalent;
- 27 (6) "Employee" means any person:

- 1 (a) Who is currently a permanent full-time employee of the qualified company;
- 2 (b) Who has been employed by the qualified company for the last twelve (12)
- 3 calendar months immediately preceding the filing of the application for skills
- 4 training investment credits by the qualified company;
- 5 (c) Who is a Kentucky resident, as that term is defined in KRS 141.010; and
- 6 (d) Who receives a base hourly wage which is one hundred fifty percent (150%)
- 7 of the federal minimum wage plus employee benefits equal to at least fifteen
- 8 percent (15%) of the applicable base hourly wage, if the qualified company is
- 9 located in a county of Kentucky which has had an average countywide rate of
- 10 unemployment of fifteen percent (15%) or greater in the most recent twelve
- 11 (12) consecutive months for which unemployment figures are available, on the
- 12 basis of the final unemployment figures calculated by the ~~{Office of~~
- 13 ~~Employment and Training within the}~~ Department of Workforce Investment in
- 14 the Education and Workforce Development Cabinet.

15 For purposes of this subsection, a "full-time employee" means an employee who has

16 been employed by the qualified company for a minimum of thirty-five (35) hours

17 per week for more than two hundred fifty (250) work days during the most recently

18 ended calendar year and is subject to the tax imposed by KRS 141.020;

19 (7) "Occupational upgrade training" means employee training sponsored by a qualified

20 company that is designed to qualify the employee for a promotional opportunity

21 with the qualified company;

22 (8) "Preliminarily approved company" means a qualified company seeking to sponsor

23 an occupational upgrade training program or skills upgrade training program, which

24 has received preliminary approval from the authority under KRS 154.12-2088 to

25 receive a certain maximum amount of skills training investment credits;

26 (9) "Qualified company" means any person, corporation, limited liability company,

27 partnership, limited partnership, sole proprietorship, firm, enterprise, franchise,

1 association, organization, holding company, joint stock company, professional
2 service corporation, or any other legal entity through which business is conducted
3 that has been actively engaged in any of the following qualified activities within the
4 Commonwealth for not less than three (3) consecutive years: manufacturing,
5 including the processing, assembling, production, or warehousing of any property;
6 processing of agricultural and forestry products; telecommunications; health care;
7 product research and engineering; tool and die and machine technology; mining;
8 tourism and operation of facilities to be used in the entertainment, recreation, and
9 convention industry; and transportation in support of manufacturing.
10 Notwithstanding the provisions of this subsection, any company whose primary
11 purpose is the sale of goods at retail shall not constitute a qualified company;

12 (10) "Skills upgrade training" means employee training sponsored by a qualified
13 company that is designed to provide the employee with new skills necessary to
14 enhance productivity, improve performance, or retain employment, including but
15 not limited to technical and interpersonal skills training, and training that is
16 designed to enhance the computer skills, communication skills, problem solving,
17 reading, writing, or math skills of employees who are unable to function effectively
18 on the job due to deficiencies in these areas, are unable to advance on the job, or
19 who risk displacement because their skill deficiencies inhibit their training potential
20 for new technology; and

21 (11) "Skills training investment credit" means the credit against Kentucky income tax
22 imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by
23 KRS 141.0401, as provided in KRS 154.12-2086(1).

24 ➔Section 17. KRS 154.20-150 is amended to read as follows:

25 (1) On or before October 1, 1992, and on or before the first day of every third month
26 thereafter, the authority shall provide a written project status report to the
27 Legislative Research Commission, and the authority shall be compelled to send a

- 1 representative to testify on the project status report and the authority shall provide
2 additional information on any projects upon request by the Legislative Research
3 Commission. The written project status report shall include but is not limited to:
- 4 (a) The current status of each project under consideration by the authority, the
5 proposed cost of a project, for each project under consideration, including any
6 proposed financial obligations of the authority, the number of jobs to be
7 created or retained by each project under consideration, and a description of
8 the applicants with respect to each project under consideration; and
- 9 (b) The current status of each project, along with an updated cost for each project
10 in progress, including any financial obligations of the authority and a
11 description of the principals with respect to each project in progress.
- 12 (2) On or before November 1 of each year, the authority shall prepare an annual report
13 and make it available on the Cabinet for Economic Development Web sites
14 required by KRS 154.12-2035. The report shall include information about the
15 success or failure of each completed project, in order to determine the effectiveness
16 of the Kentucky Economic Development Finance Authority.
- 17 (3) In addition to the project status report, all construction, reconstruction, or alteration,
18 financed or facilitated in whole or in part by the authority shall be reported to the
19 ~~{Office of Employment and Training within the }~~Department of Workforce
20 Investment in the Education and Workforce Development Cabinet and to the
21 Kentucky Legislative Research Commission not later than fifteen (15) days
22 following the end of the month in which the agreement or contract facilitating or
23 permitting such activity was executed. This construction activity report shall be
24 subject to public information requests as provided by KRS 61.878. Reports shall list
25 subject construction activity by location of project site, and shall specify the type of
26 construction, project owner, estimated cost of project, and estimated starting and
27 completion dates if known.

1 ➔Section 18. KRS 154.20-170 is amended to read as follows:

- 2 (1) Industrial entities, agricultural business entities, business enterprises, or private
3 sector firms which are members of a business network within the meaning of KRS
4 154.1-010 and businesses that compose the secondary wood products industry as
5 defined in KRS 154.47-005(8), shall be given priority consideration under state
6 economic development loan, grant, and incentive programs administered by the
7 Kentucky Economic Development Finance Authority.
- 8 (2) Notwithstanding the provisions of subsection (1) of this section, highest priority
9 consideration under state economic development loan, grant, and incentive
10 programs administered by the authority shall be given to those projects that are
11 located in counties of Kentucky which have had an average countywide rate of
12 unemployment of fifteen percent (15%) or greater in the most recent twelve (12)
13 consecutive months for which unemployment figures are available, on the basis of
14 the final unemployment figures calculated by the ~~{Office of Employment and~~
15 ~~Training within the }~~Department of Workforce Investment in the Education and
16 Workforce Development Cabinet.

17 ➔Section 19. KRS 154.22-010 is amended to read as follows:

18 The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the
19 context clearly indicates a different meaning, shall have the following meanings:

- 20 (1) "Activation date" means a date selected by an approved company in the tax
21 incentive agreement at any time within a two (2) year period after the date of final
22 approval of the tax incentive agreement by the authority;
- 23 (2) "Affiliate" means the following:
- 24 (a) Members of a family, including only brothers and sisters of the whole or half
25 blood, spouse, ancestors, and lineal descendants of an individual;
- 26 (b) An individual, and a corporation more than fifty percent (50%) in value of the
27 outstanding stock of which is owned, directly or indirectly, by or for that

1 individual;

2 (c) An individual, and a limited liability company of which more than fifty
3 percent (50%) of the capital interest or profits are owned or controlled,
4 directly or indirectly, by or for that individual;

5 (d) Two (2) corporations which are members of the same controlled group, which
6 includes and is limited to:

7 1. One (1) or more chains of corporations connected through stock
8 ownership with a common parent corporation, if:

9 a. Stock possessing more than fifty percent (50%) of the total
10 combined voting power of all classes of stock entitled to vote or
11 more than fifty percent (50%) of the total value of shares of all
12 classes of stock of each of the corporations, except the common
13 parent corporation, is owned by one (1) or more of the other
14 corporations; and

15 b. The common parent corporation owns stock possessing more than
16 fifty percent (50%) of the total combined voting power of all
17 classes of stock entitled to vote or more than fifty percent (50%) of
18 the total value of shares of all classes of stock of at least one (1) of
19 the other corporations, excluding, in computing the voting power
20 or value, stock owned directly by the other corporations; or

21 2. Two (2) or more corporations, if five (5) or fewer persons who are
22 individuals, estates, or trusts own stock possessing more than fifty
23 percent (50%) of the total combined voting power of all classes of stock
24 entitled to vote or more than fifty percent (50%) of the total value of
25 shares of all classes of stock of each corporation, taking into account the
26 stock ownership of each person only to the extent the stock ownership is
27 identical with respect to each corporation;

- 1 (e) A grantor and a fiduciary of any trust;
- 2 (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a
3 grantor of both trusts;
- 4 (g) A fiduciary of a trust and a beneficiary of that trust;
- 5 (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a
6 grantor of both trusts;
- 7 (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value
8 of the outstanding stock of which is owned, directly or indirectly, by or for the
9 trust or by or for a person who is a grantor of the trust;
- 10 (j) A fiduciary of a trust and a limited liability company more than fifty percent
11 (50%) of the capital interest, or the interest in profits, of which is owned
12 directly or indirectly, by or for the trust or by or for a person who is a grantor
13 of the trust;
- 14 (k) A corporation, a partnership, and a limited partnership, if the same persons
15 own:
- 16 1. More than fifty percent (50%) in value of the outstanding stock of the
17 corporation; and
- 18 2. More than fifty percent (50%) of the capital interest, or the profits
19 interest, in the partnership or limited partnership;
- 20 (l) A corporation and a limited liability company, if the same persons own:
- 21 1. More than fifty percent (50%) in value of the outstanding stock of the
22 corporation; and
- 23 2. More than fifty percent (50%) of the capital interest or the profits in the
24 limited liability company;
- 25 (m) A partnership, limited partnership, and a limited liability company, if the same
26 persons own:
- 27 1. More than fifty percent (50%) of the capital interest or profits in the

- 1 partnership or limited partnership; and
- 2 2. More than fifty percent (50%) of the capital interest or the profits in the
- 3 limited liability company;
- 4 (n) An S corporation and another S corporation, if the same persons own more
- 5 than fifty percent (50%) in value of the outstanding stock of each corporation,
- 6 S corporation designation being the same as that designation under the
- 7 Internal Revenue Code of 1986, as amended; or
- 8 (o) An S corporation and a C corporation, if the same persons own more than fifty
- 9 percent (50%) in value of the outstanding stock of each corporation; S and C
- 10 corporation designations being the same as those designations under the
- 11 Internal Revenue Code of 1986, as amended;
- 12 (3) "Agribusiness" means any activity involving the processing of raw agricultural
- 13 products, including timber, or the providing of value-added functions with regard to
- 14 raw agricultural products;
- 15 (4) "Approved company" means any eligible company seeking to locate an economic
- 16 development project in a qualified county, which eligible company is approved by
- 17 the authority pursuant to KRS 154.22-010 to 154.22-080;
- 18 (5) "Approved costs" means:
- 19 (a) Obligations incurred for labor and to contractors, subcontractors, builders, and
- 20 materialmen in connection with the acquisition, construction, installation,
- 21 equipping, and rehabilitation of an economic development project;
- 22 (b) The cost of acquiring land or rights in land and any cost incidental thereto,
- 23 including recording fees;
- 24 (c) The cost of contract bonds and of insurance of all kinds that may be required
- 25 or necessary during the course of acquisition, construction, installation,
- 26 equipping, and rehabilitation of an economic development project which is
- 27 not paid by the contractor or contractors or otherwise provided for;

- 1 (d) All costs of architectural and engineering services, including test borings,
2 surveys, estimates, plans and specifications, preliminary investigations, and
3 supervision of construction, as well as for the performance of all the duties
4 required by or consequent upon the acquisition, construction, installation,
5 equipping, and rehabilitation of an economic development project;
- 6 (e) All costs which shall be required to be paid under the terms of any contract or
7 contracts for the acquisition, construction, installation, equipping, and
8 rehabilitation of an economic development project; and
- 9 (f) All other costs of a nature comparable to those described above;
- 10 (6) "Assessment" means the job development assessment fee authorized by KRS
11 154.22-010 to 154.22-080;
- 12 (7) "Authority" means the Kentucky Economic Development Finance Authority as
13 created in KRS 154.20-010;
- 14 (8) "Average hourly wage" means the wage and employment data published by the
15 ~~{Office of Employment and Training within the }~~Department of Workforce
16 Investment in the Education and Workforce Development Cabinet collectively
17 translated into wages per hour based on a two thousand eighty (2,080) hour work
18 year for the following sectors:
- 19 (a) Manufacturing;
- 20 (b) Transportation, communications, and public utilities;
- 21 (c) Wholesale and retail trade;
- 22 (d) Finance, insurance, and real estate; and
- 23 (e) Services;
- 24 (9) "Commonwealth" means the Commonwealth of Kentucky;
- 25 (10) (a) "Economic development project" means and includes:
- 26 1. The acquisition of ownership in any real estate in a qualified county by
27 the authority, the approved manufacturing or agribusiness company, or

- 1 its affiliate;
- 2 2. The present ownership of real estate in a qualified county by the
- 3 approved manufacturing or agribusiness company or its affiliate;
- 4 3. The acquisition or present ownership of improvements or facilities, as
- 5 described in paragraph (b) of this subsection, on land which is possessed
- 6 or is to be possessed by the approved manufacturing or agribusiness
- 7 company pursuant to a ground lease having a term of sixty (60) years or
- 8 more;
- 9 4. The new construction of an electric generation facility; and
- 10 5. The legal possession of facilities by an approved company or its affiliate
- 11 pursuant to a lease having a term equal to or greater than fifteen (15)
- 12 years with a third-party entity, negotiated at arm's length, if the facility
- 13 will be used by the approved company to conduct the approved activity
- 14 for which the inducement has been granted. An economic development
- 15 project qualifying under this subparagraph shall only be eligible for
- 16 credits against equipment and costs related to installation of equipment
- 17 and for purposes of the tax credits provided under the provisions of KRS
- 18 154.22-010 to 154.22-080 only to the extent of twenty thousand dollars
- 19 (\$20,000) per job created by and maintained at the economic
- 20 development project. Notwithstanding KRS 154.22-050(8) and 154.22-
- 21 060, an economic development project qualifying under this
- 22 subparagraph shall be eligible only for the aggregate assessments
- 23 pursuant to KRS 154.22-070 withheld by the approved company each
- 24 year and shall not be eligible for credit against Kentucky income tax and
- 25 limited liability entity tax.
- 26 (b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real
- 27 estate shall only include fee ownership of real estate and possession of real

1 estate pursuant to a capital lease as determined in accordance with Statement
2 of Financial Accounting Standards No. 13, Accounting for Leases, issued by
3 the Financial Accounting Standards Board, November 1976. With respect to
4 paragraph (a)1., 2., and 3. of this subsection or this paragraph, the
5 construction, installation, equipping, and rehabilitation of improvements,
6 including fixtures and equipment, and facilities necessary or desirable for
7 improvement of the real estate, including surveys; site tests and inspections;
8 subsurface site work; excavation; removal of structures, roadways, cemeteries,
9 and other surface obstructions; filling, grading, and provision of drainage,
10 storm water retention, installation of utilities such as water, sewer, sewage
11 treatment, gas, electricity, communications, and similar facilities; off-site
12 construction of utility extensions to the boundaries of the real estate; and the
13 acquisition, installation, equipping, and rehabilitation of manufacturing
14 facilities on the real estate, for use and occupancy by the approved company or
15 its affiliates for manufacturing purposes, electric generation, or for
16 agribusiness purposes. Pursuant to paragraph (a)3. and 5. of this subsection,
17 an economic development project shall not include lease payments made
18 pursuant to a ground lease for purposes of the tax credits provided under the
19 provisions of KRS 154.22-010 to 154.22-080;

20 (11) "Electric generation" means the generation of electricity for resale by means of
21 combusting at least fifty percent (50%) of the total fuel used to generate electricity
22 from coal or from gas derived from coal;

23 (12) "Eligible company" means any corporation, limited liability company, partnership,
24 limited partnership, sole proprietorship, business trust, or any other entity engaged
25 in manufacturing, electric generation, or in agribusiness;

26 (13) "Employee benefits" means nonmandated costs paid by an eligible company for its
27 full-time employees for health insurance, life insurance, dental insurance, vision

- 1 insurance, defined benefits, 401(k), or similar plans;
- 2 (14) "Final approval" means the action taken by the authority authorizing the eligible
3 company to receive inducements under this subchapter;
- 4 (15) "Full-time employee" means a person employed by an approved company for a
5 minimum of thirty-five (35) hours per week and subject to the state income tax
6 imposed by KRS 141.020;
- 7 (16) "Inducements" means the assessment and the tax credits allowed by KRS 154.22-
8 060;
- 9 (17) "Manufacturing" means any activity involving the manufacturing, processing,
10 assembling, or production of any property, including the processing resulting in a
11 change in the conditions of the property and any activity related to it, together with
12 the storage, warehousing, distribution, and related office facilities; however,
13 "manufacturing" shall not include mining, coal or mineral processing, or extraction
14 of minerals;
- 15 (18) "Preliminary approval" means the action taken by the authority conditioning final
16 approval by the authority upon satisfaction by the eligible company of the
17 requirements under this subchapter;
- 18 (19) "Qualified county" means any county certified as such by the authority pursuant to
19 KRS 154.22-010 to 154.22-080;
- 20 (20) "Revenues" shall not be considered state funds;
- 21 (21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);
- 22 (22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS
23 154.22-050, between the authority and an approved company with respect to an
24 economic development project;
- 25 (23) "Kentucky gross receipts" means "Kentucky gross receipts" as defined in KRS
26 141.0401; and
- 27 (24) "Kentucky gross profits" means "Kentucky gross profits" as defined in KRS

1 141.0401.

2 ➔Section 20. KRS 154.22-040 is amended to read as follows:

3 (1) Each year, the authority shall under its Rural Economic Development Assistance
4 Program, on the basis of the final unemployment figures calculated by ~~[the Office of~~
5 ~~Employment and Training within]~~ the Department of Workforce Investment in the
6 Education and Workforce Development Cabinet, determine which counties have
7 had a countywide rate of unemployment exceeding the statewide unemployment
8 rate of the Commonwealth in the most recent five (5) consecutive calendar years, or
9 which have had an average countywide rate of unemployment exceeding the
10 statewide unemployment rate of the Commonwealth by two hundred percent
11 (200%) in the most recent calendar year, and shall certify those counties as qualified
12 counties. A county not certified on the basis of final unemployment figures may
13 also be certified as a qualified county if the authority determines the county is one
14 (1) of the sixty (60) most distressed counties in the Commonwealth based on the
15 following criteria with equal weight given to each criterion:

16 (a) The average countywide rate of unemployment in the most recent three (3)
17 consecutive calendar years, on the basis of final unemployment figures
18 calculated by the ~~[Office of Employment and Training within the]~~ Department
19 of Workforce Investment in the Education and Workforce Development
20 Cabinet;

21 (b) In each county the percentage of adults twenty-five (25) years of age and older
22 who have attained at least a high school education or equivalent, on the basis
23 of the most recent data available from the United States Department of
24 Commerce, Bureau of the Census; and

25 (c) Road quality, as quantified by the access within a county to roads ranked in
26 descending order from best quality to worst quality as follows: two (2) or
27 more interstate highways, one (1) interstate highway, a state four (4) lane

1 parkway, four (4) lane principal arterial access to an interstate highway, state
2 two (2) lane parkway and none of the preceding road types, as certified by the
3 Kentucky Transportation Cabinet to the authority.

4 If the authority determines that a county which has previously been certified as a
5 qualified county no longer meets the criteria of this subsection, the authority shall
6 decertify that county. The authority shall not provide inducements for any facilities
7 in that county and an approved company shall not be eligible for the inducements
8 offered by KRS 154.22-010 to 154.22-070 unless the tax incentive agreements
9 required herein are entered into by all parties prior to July 1 of the year following
10 the calendar year in which the authority decertified that county. In addition, the
11 authority shall certify coal-producing counties, not otherwise certified as qualified
12 counties in this subsection, for economic development projects involving the new
13 construction of electric generation facilities. A coal-producing county shall mean a
14 county in the Commonwealth of Kentucky that has produced coal upon which the
15 tax imposed under KRS 143.020 was paid at any time. For economic development
16 projects undertaken in a regional industrial park, as defined in KRS 42.4588, or in
17 an industrial park created pursuant to an interlocal agreement in which revenues are
18 shared as provided in KRS 65.245, where the physical boundaries of the industrial
19 park lie within two (2) or more counties of which at least one (1) of the counties is a
20 qualified county under this section, an eligible company undertaking an economic
21 development project within the physical boundaries of the industrial park may be
22 approved for the inducements under KRS 154.22-010 to 154.22-080.

23 (2) The authority shall establish the procedures and standards for the determination and
24 approval of eligible companies and their economic development projects by the
25 promulgation of administrative regulations in accordance with KRS Chapter 13A.
26 The criteria for approval of eligible companies and economic development projects
27 shall include but not be limited to the creditworthiness of eligible companies; the

1 number of new jobs to be provided by an economic development project to
2 residents of the Commonwealth; and the likelihood of the economic success of the
3 economic development project.

4 (3) The economic development project shall involve a minimum investment of one
5 hundred thousand dollars (\$100,000) by the eligible company and shall result in the
6 creation by the eligible company, within two (2) years from the date of the final
7 approval authorizing the economic development project, of a minimum of fifteen
8 (15) new full-time jobs at the site of the economic development project for
9 Kentucky residents to be employed by the eligible company and to be held by
10 persons subject to the personal income tax of the Commonwealth. The authority
11 may extend this two (2) year period upon the written application of an eligible
12 company requesting an extension.

13 (4) (a) Within six (6) months after the activation date, the approved company shall
14 compensate a minimum of ninety percent (90%) of its full-time employees
15 whose jobs were created with base hourly wages equal to either:

- 16 1. Seventy-five percent (75%) of the average hourly wage for the
17 Commonwealth; or
- 18 2. Seventy-five percent (75%) of the average hourly wage for the county in
19 which the project is to be undertaken.

20 (b) If the base hourly wage calculated in paragraph (a)1. or 2. of this subsection is
21 less than one hundred fifty percent (150%) of the federal minimum wage, then
22 the base hourly wage shall be one hundred fifty percent (150%) of the federal
23 minimum wage. However, for projects receiving preliminary approval of the
24 authority prior to July 1, 2008, the base hourly wage shall be one hundred fifty
25 percent (150%) of the federal minimum wage existing on January 1, 2007. In
26 addition to the applicable base hourly wage calculated above, the eligible
27 company shall provide employee benefits equal to at least fifteen percent

1 (15%) of the applicable base hourly wage; however, if the eligible company
2 does not provide employee benefits equal to at least fifteen percent (15%) of
3 the applicable base hourly wage, the eligible company may qualify under this
4 section if it provides the employees hired by the eligible company as a result
5 of the economic development project total hourly compensation equal to or
6 greater than one hundred fifteen percent (115%) of the applicable base hourly
7 wage through increased hourly wages combined with employee benefits.

8 (c) The requirements of this subsection shall not apply to eligible companies
9 which are nonprofit corporations established under KRS 273.163 to 273.387
10 and whose employees are handicapped and sheltered workshop workers
11 employed at less than the established minimum wage as authorized by KRS
12 337.295.

13 For an eligible company, within a regional industrial park which lies within two (2)
14 or more counties, the calculation of the wage and benefit requirement shall be
15 determined by averaging the average county hourly wage for all counties within the
16 regional industrial park.

17 (5) No economic development project which will result in the replacement of
18 agribusiness, manufacturing, or electric generation facilities existing in the state
19 shall be approved by the authority; however, the authority may approve an
20 economic development project that:

21 (a) Rehabilitates an agribusiness, manufacturing, or electric generation facility:

22 1. Which has not been in operation for a period of ninety (90) or more
23 consecutive days;

24 2. For which the current occupant of the facility has published a notice of
25 closure so long as the eligible company intending to acquire the facility
26 is not an affiliate of the current occupant; or

27 3. The title to which is vested in other than the eligible company or an

- 1 affiliate of the eligible company and that is sold or transferred pursuant
2 to a foreclosure ordered by a court of competent jurisdiction or an order
3 of a bankruptcy court of competent jurisdiction;
- 4 (b) Replaces an agribusiness, manufacturing, or electric generation facility
5 existing in the Commonwealth:
- 6 1. The title to which shall have been taken under the exercise of the power
7 of eminent domain, or the title to which shall be the subject of a
8 nonappealable judgment granting the authority to exercise the power of
9 eminent domain, in either event to the extent that normal operations
10 cannot be resumed at the facility within twelve (12) months; or
- 11 2. Which has been damaged or destroyed by fire or other casualty to the
12 extent that normal operations cannot be resumed at the facility within
13 twelve (12) months; or
- 14 (c) Replaces an existing agribusiness, manufacturing, or electric generation
15 facility located in the same qualified county, and the existing agribusiness,
16 manufacturing, or electric generation facility to be replaced cannot be
17 expanded due to the unavailability of real estate at or adjacent to the
18 agribusiness, manufacturing, or electric generation facility to be replaced. Any
19 economic development project satisfying the requirements of this subsection
20 shall only be eligible for inducements to the extent of the expansion, and no
21 inducements shall be available for the equivalent of the agribusiness,
22 manufacturing, or electric generation facility to be replaced. No economic
23 development project otherwise satisfying the requirements of this subsection
24 shall be approved by the authority which results in a lease abandonment or
25 lease termination by the approved company without the consent of the lessor.
- 26 (6) With respect to each eligible company making an application to the authority for
27 inducements, and with respect to the economic development project described in the

1 application, the authority shall request materials and make inquiries of the applicant
2 as necessary or appropriate. Upon review of the application and completion of
3 initial inquiries, the authority may, by resolution, give its preliminary approval by
4 designating an eligible company as a preliminarily approved company and
5 authorizing the undertaking of the economic development project. After preliminary
6 approval, the authority may by final approval designate an eligible company to be
7 an approved company.

8 ➔Section 21. KRS 154.23-010 is amended to read as follows:

9 As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

- 10 (1) "Affiliate" has the same meaning as in KRS 154.22-010;
- 11 (2) "Approved company" means an eligible company that locates an economic
12 development project in a qualified zone, as provided for in KRS 154.23-030;
- 13 (3) "Approved costs" means:
- 14 (a) For an approved company that establishes a new manufacturing facility or
15 expands an existing manufacturing facility, the following obligations incurred
16 in its economic development project, including rent under leases subject to
17 subsection (8)(b)4. of this section:
- 18 1. The cost of labor, contractors, subcontractors, builders, and material
19 workers in connection with the acquisition, construction, installation,
20 equipping, and rehabilitation of an economic development project;
 - 21 2. The cost of acquiring real estate or rights in land and any cost incidental
22 thereto, including recording fees;
 - 23 3. The cost of contract bonds and insurance of all kinds that may be
24 required or necessary during the course of acquisition, construction,
25 installation, equipping, and rehabilitation of an economic development
26 project that is not paid by the contractor or contractors or otherwise
27 provided for;

- 1 4. The cost of architectural and engineering services, including test
2 borings, surveys, estimates, plans and specifications, preliminary
3 investigations, and supervision of construction, as well as for the
4 performance of all duties required by or consequent to the acquisition,
5 construction, installation, equipping, and rehabilitation of an economic
6 development project;
- 7 5. All costs required to be paid under the terms of any contract for the
8 acquisition, construction, installation, equipping, and rehabilitation of an
9 economic development project; and
- 10 6. All other costs of a nature comparable to those described above; or
- 11 (b) For an approved company that establishes a new service or technology
12 business or expands existing service or technology operations, up to a
13 maximum of fifty percent (50%) of the total start-up costs during the term of
14 the service and technology agreement, plus up to a maximum of fifty percent
15 (50%) of the annual rent for each elapsed year of the service and technology
16 agreement;
- 17 (4) "Assessment" means the job development assessment fee authorized by KRS
18 154.23-055;
- 19 (5) "Authority" means the Kentucky Economic Development Finance Authority, as
20 created in KRS 154.20-010;
- 21 (6) "Average hourly wage" means the wage and employment data published by the
22 ~~{Office of Employment and Training within the }~~Department of Workforce
23 Investment within the Education and Workforce Development Cabinet collectively
24 translated into wages per hour based on a two thousand eighty (2,080) hour work
25 year for the following sectors:
- 26 (a) Manufacturing;
- 27 (b) Transportation, communications, and public utilities;

- 1 (c) Wholesale and retail trade;
- 2 (d) Finance, insurance, and real estate; and
- 3 (e) Services;
- 4 (7) "Commonwealth" means the Commonwealth of Kentucky;
- 5 (8) "Economic development project" or "project" means:
- 6 (a) A new or expanded service or technology activity conducted at a new or
- 7 expanded site by:
- 8 1. An approved company; or
- 9 2. An approved company and its affiliate or affiliates; or
- 10 (b) Any of the following activities of an approved company engaged in
- 11 manufacturing:
- 12 1. The acquisition of or present ownership in any real estate in a qualified
- 13 zone for the purposes described in KRS 154.23-005 to 154.23-079,
- 14 which ownership shall include only fee simple ownership of real estate
- 15 and possession of real estate according to a capital lease as determined
- 16 in accordance with Statement of Financial Accounting Standards No. 13,
- 17 Accounting for Leases, issued by the Financial Accounting Standards
- 18 Board, November 1976;
- 19 2. The acquisition or present ownership of improvements or facilities on
- 20 land that is possessed or is to be possessed by the approved company in
- 21 a ground lease having a term of sixty (60) years or more; provided,
- 22 however, that this project shall not include lease payments made under a
- 23 ground lease for purposes of calculating the tax credits offered under
- 24 KRS 154.23-005 to 154.23-079;
- 25 3. The construction, installation, equipping, and rehabilitation of
- 26 improvements, fixtures, equipment, and facilities necessary or desirable
- 27 for improvement of the real estate owned, used, or occupied by the

1 approved company for manufacturing purposes. Construction activities
2 include surveys; site tests and inspections; subsurface site work;
3 excavation; removal of structures, roadways, cemeteries, and other
4 surface obstructions; filling, grading, and providing drainage and storm
5 water retention; installation of utilities such as water, sewer, sewage
6 treatment, gas, electric, communications, and similar facilities; off-site
7 construction of utility extensions to the boundaries of the real estate; or
8 similar activities as the authority may determine necessary for
9 construction; and

10 4. The leasing of real estate and the buildings and fixtures thereon
11 acquired, constructed, and installed with funds from grants under KRS
12 154.23-060;

13 (9) "Eligible company" means any corporation, limited liability company, partnership,
14 limited partnership, sole proprietorship, business trust, or any other legal entity
15 engaged in manufacturing, or service or technology; however, any company whose
16 primary purpose is retail sales shall not be an eligible company;

17 (10) "Employee benefits" means nonmandated costs paid by an eligible company for its
18 full-time employees for health insurance, life insurance, dental insurance, vision
19 insurance, defined benefits, 401(k), or similar plans;

20 (11) "Final approval" means action taken by the authority that authorizes the eligible
21 company to receive inducements in connection with a project under KRS 154.23-
22 005 to 154.23-079;

23 (12) "Full-time employee" means a person employed by an approved company for a
24 minimum of thirty-five (35) hours per week and subject to the state income tax
25 imposed by KRS 141.020;

26 (13) "Inducements" means the assessment and the income tax credits allowed to an
27 approved company under KRS 154.23-050 and 154.23-055;

- 1 (14) "Local government" means a city, county, or urban-county government;
- 2 (15) "Manufacturing" means to make, assemble, process, produce, or perform any other
3 activity that changes the form or conditions of raw materials and other property, and
4 shall include any ancillary activity to the manufacturing process, such as storage,
5 warehousing, distribution, and related office facilities; however, "manufacturing"
6 shall not include mining, the extraction of minerals or coal, or processing of these
7 resources;
- 8 (16) "Person" means an individual, sole proprietorship, partnership, limited partnership,
9 joint venture, trust, unincorporated organization, association, corporation, limited
10 liability company, institution, entity or government, whether federal, state, county,
11 city, or otherwise, including without limitation any instrumentality, division,
12 political subdivision, district, court, agency, or department thereof;
- 13 (17) "Preliminary approval" means action taken by the authority that conditions final
14 approval of an eligible company and its economic development project upon
15 satisfaction by the eligible company of the applicable requirements under KRS
16 154.23-005 to 154.23-079;
- 17 (18) "Qualified employee" means an individual subject to Kentucky income tax who has
18 resided in the qualified zone where the project exists for at least twelve (12)
19 consecutive months preceding full-time employment by an approved company;
- 20 (19) "Qualified statewide employee" means an individual subject to Kentucky income
21 tax who has resided in any census tract or county in the Commonwealth that meets
22 the criteria in KRS 154.23-015, regardless of whether the tract or county is in a
23 qualified zone, for at least twelve (12) consecutive months preceding full-time
24 employment by an approved company;
- 25 (20) "Qualified zone" means any census tract or county certified as such by the authority
26 in KRS 154.23-015 and 154.23-020;
- 27 (21) "Rent" means:

- 1 (a) The actual annual rent or leasing fee paid by an approved company to a bona
2 fide entity negotiated at arm's length for the use of a building by the approved
3 company to conduct the approved project for which the inducement has been
4 granted; or
- 5 (b) The fair rental value on an annual basis in a building owned by the approved
6 company of the space used by the approved company to conduct the approved
7 project for which the inducement has been granted as determined by the
8 authority using criteria that are customary in the real estate industry for the
9 type of building being used. The fair rental value shall include an analysis of
10 the cost of amortizing the cost of land and building over the period of time
11 customary in the real estate industry for the type of building and for the land
12 being utilized; and
- 13 (c) Rent shall include the customary cost of occupancy, including but not limited
14 to property taxes, heating and air conditioning, electricity, water, sewer, and
15 insurance;
- 16 (22) "Service and technology agreement" means any agreement entered into under KRS
17 154.23-040 on behalf of the authority, an approved company engaged in service or
18 technology, and third-party lessors, if applicable, with respect to an economic
19 development project;
- 20 (23) (a) "Service or technology" means either:
- 21 1. Any activity involving the performance of work, except work classified
22 by the divisions, including successor divisions, of agriculture, forestry
23 and fishing, mining, utilities, construction, manufacturing, wholesale
24 trade, retail trade, real estate rental and leasing, educational services,
25 accommodation and food services, and public administration in
26 accordance with the "North American Industry Classification System,"
27 as revised by the United States Office of Management and Budget from

1 time to time, or any successor publication; or

2 2. Regional or headquarters operations of an entity engaged in an activity
3 listed in subparagraph 1. of this paragraph.

4 (b) Notwithstanding paragraph (a) of this subsection, "service or technology"
5 shall not include any activity involving the performance of work by an
6 individual who is providing direct service to the public pursuant to a license
7 issued by the state or an association that licenses in lieu of the state;

8 (24) "Start-up costs" means the acquisition cost associated with the project and related to
9 furnishing and equipping a building for ordinary business functions, including
10 computers, nonrecurring costs of fixed telecommunication equipment, furnishings,
11 office equipment, and the relocation of out-of-state equipment, as verified and
12 approved by the authority in accordance with KRS 154.23-040;

13 (25) "Tax incentive agreement" means that agreement entered into pursuant to KRS
14 154.23-035 between the authority and an approved company with respect to an
15 economic development project;

16 (26) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
17 141.0401; and

18 (27) "Kentucky gross profits" means Kentucky gross profits as defined in KRS
19 141.0401.

20 ➔Section 22. KRS 154.23-015 is amended to read as follows:

21 (1) Upon written application by a county, urban-county government, or city of the first
22 class, the authority shall certify one (1) to five (5) contiguous census tracts or a
23 county certified by the authority in accordance with KRS 154.22-040 as a qualified
24 zone. In the case of certification based on one (1) to five (5) contiguous census
25 tracts, each census tract shall independently meet each of the following criteria, as
26 verified by the ~~{Office of Employment and Training within the }~~Department of
27 Workforce Investment in the Education and Workforce Development Cabinet:

- 1 (a) A minimum total poverty rate of one hundred fifty percent (150%) of the
2 United States poverty rate as determined by the most recent decennial census;
- 3 (b) An unemployment rate that exceeds the statewide unemployment rate as
4 determined on the basis of the most recent decennial census; and
- 5 (c) A minimum population density of two hundred percent (200%) of the average
6 Kentucky census tract population density as determined by the most recent
7 decennial census.
- 8 (2) Census tract information shall be based upon United States census data as set forth
9 in the most recent edition of Census of Population and Housing: Population and
10 Housing Characteristics for Census Tracts and Block Numbering Areas published
11 by the United States Bureau of the Census.
- 12 (3) The authority shall certify no more than one (1) qualified zone within each county
13 of the Commonwealth, except in the case of a county certified under KRS 154.22-
14 040, the entire county shall constitute the qualified zone.
- 15 (4) A qualified zone shall commence on the date of certification by the authority and
16 continue thereafter, except that at the time new decennial census data becomes
17 available, the authority shall decertify any census tract that no longer meets the
18 criteria of subsection (1) of this section for qualified zone status. The authority shall
19 not give preliminary approval to any project in a decertified census tract. An
20 approved company whose project is located in a decertified census tract shall not be
21 eligible for the inducements offered by KRS 154.23-005 to 154.23-079, unless the
22 tax incentive agreement or service and technology agreement is entered into by all
23 parties prior to July 1 of the year following the calendar year in which the authority
24 decertified that tract.
- 25 (5) If decertification causes a formerly certified contiguous census tract to become
26 noncontiguous, the applicant shall have the discretion to eliminate or maintain the
27 noncontiguous tract. If the applicant eliminates the noncontiguous tract, it may

1 replace the noncontiguous tract with another qualifying census tract, subject to
2 approval of the authority.

3 (6) A county, urban-county government, or city of the first class shall have no authority
4 to request decertification of a census tract, and any addition of a census tract
5 requested by a county, urban-county government, or city of the first class under
6 KRS 154.23-020 shall be contiguous to a census tract that continues to meet the
7 criteria under this section.

8 (7) The authority shall pay its costs of counsel relating to zone certification.

9 ➔Section 23. KRS 154.24-010 is amended to read as follows:

10 The following words and terms, unless the context clearly indicates a different meaning,
11 shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

12 (1) "Affiliate" has the same meaning as in KRS 154.22-010;

13 (2) "Agreement" means the service and technology agreement made pursuant to KRS
14 154.24-120, between the authority and an approved company with respect to an
15 economic development project;

16 (3) "Approved company" means any eligible company seeking to locate an economic
17 development project from outside the Commonwealth into the Commonwealth, or
18 undertaking an economic development project in the Commonwealth for which it is
19 approved pursuant to KRS 154.24-100;

20 (4) "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a
21 maximum of ten thousand dollars (\$10,000) per new full-time job created and to be
22 held by a Kentucky resident subject to the personal income tax of the
23 Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of
24 the service and technology agreement;

25 (5) "Assessment" means the "service and technology job creation assessment fee"
26 authorized by KRS 154.24-110;

27 (6) "Authority" means the Kentucky Economic Development Finance Authority, as

- 1 created in KRS 154.20-010;
- 2 (7) "Average hourly wage" means the wage and employment data published by the
3 ~~[Office of Employment and Training within the]~~Department of Workforce
4 Investment within the Education and Workforce Development Cabinet collectively
5 translated into wages per hour based on a two thousand eighty (2,080) hour work
6 year for the following sectors:
- 7 (a) Manufacturing;
 - 8 (b) Transportation, communications, and public utilities;
 - 9 (c) Wholesale and retail trade;
 - 10 (d) Finance, insurance, and real estate; and
 - 11 (e) Services;
- 12 (8) "Commonwealth" means the Commonwealth of Kentucky;
- 13 (9) "Economic development project" or "project" means a new or expanded service or
14 technology activity conducted at a new or expanded site by:
- 15 (a) An approved company; or
 - 16 (b) An approved company and its affiliate or affiliates;
- 17 (10) "Eligible company" means any corporation, limited liability company, partnership,
18 limited partnership, sole proprietorship, business trust, or any other entity engaged
19 in service or technology and meeting the standards promulgated by the authority in
20 accordance with KRS Chapter 13A;
- 21 (11) "Employee benefits" means nonmandated costs paid by an approved company for
22 its full-time employees for health insurance, life insurance, dental insurance, vision
23 insurance, defined benefits, 401(k) or similar plans;
- 24 (12) "Final approval" means the action taken by the authority authorizing the eligible
25 company to receive inducements under this subchapter;
- 26 (13) "Full-time employee" means a person employed by an approved company for a
27 minimum of thirty-five (35) hours per week and subject to the state tax imposed by

1 KRS 141.020;

2 (14) "In lieu of credits" means a local government appropriation to the extent permitted
3 by law, or other form of local government grant or service benefit, directly related
4 to the economic development project and in an amount equal to one percent (1%) of
5 employees' gross wages, exclusive of any noncash benefits provided to an
6 employee, or the provision by a local government of an in-kind contribution directly
7 related to the economic development project and in an amount equal to one half
8 (1/2) of the rent for the duration of the agreement;

9 (15) "Inducements" means the tax credits allowed and the assessment authorized by KRS
10 154.24-110, which are intended to induce companies engaged in service and
11 technology industries to locate or expand in the Commonwealth;

12 (16) "Person" means an individual, sole proprietorship, partnership, limited partnership,
13 joint venture, trust, unincorporated organization, association, corporation, limited
14 liability company, institution, entity or government, whether federal, state, county,
15 city, or otherwise, including without limitation any instrumentality, division,
16 political subdivision, district, court, agency, or department thereof;

17 (17) "Preliminary approval" means the action taken by the authority conditioning final
18 approval by the authority upon satisfaction by the eligible company of the
19 requirements under this subchapter;

20 (18) "Rent" means:

21 (a) The actual annual rent or leasing fee paid by an approved company to a bona
22 fide entity negotiated at arms length for the use of a building by the approved
23 company to conduct the approved activity for which the inducement has been
24 granted; or

25 (b) The fair rental value on an annual basis in a building owned by the approved
26 company of the space used by the approved company to conduct the approved
27 activity for which the inducement has been granted as determined by the

1 authority using criteria which is customary in the real estate industry for the
2 type of building being used. The fair rental value shall include an analysis of
3 the cost of amortizing the cost of land and building over the period of time
4 customary in the real estate industry for the type of building and for the land
5 being utilized;

6 (c) Rent shall include the customary cost of occupancy, including but not limited
7 to property taxes, heating and air-conditioning, electricity, water, sewer, and
8 insurance;

9 (19) (a) "Service or technology" means either:

10 1. Any activity involving the performance of work, except work classified
11 by the divisions, including successor divisions, of agriculture, forestry
12 and fishing, mining, utilities, construction, manufacturing, wholesale
13 trade, retail trade, real estate rental and leasing, educational services,
14 accommodation and food services, and public administration in
15 accordance with the "North American Industry Classification System,"
16 as revised by the United States Office of Management and Budget from
17 time to time, or any successor publication; or

18 2. Regional or headquarters operations of an entity engaged in an activity
19 listed in subparagraph 1. of this paragraph.

20 (b) Notwithstanding paragraph (a) of this subsection, "service or technology"
21 shall not include any activity involving the performance of work by an
22 individual who is providing direct service to the public pursuant to a license
23 issued by the state or an association that licenses in lieu of the state unless
24 seventy-five percent (75%) of the services provided by the eligible company
25 from the project are provided to persons located outside the Commonwealth
26 during the period in which it receives the inducements authorized in KRS
27 154.24-110; and

1 (20) "Start-up costs" means the acquisition cost associated with the project related to the
2 furnishing and equipping the building for ordinary business functions, including
3 computers, furnishings, office equipment, the relocation of out-of-state equipment,
4 and nonrecurring costs of fixed telecommunication equipment as verified and
5 approved by the authority in accordance with KRS 154.24-130.

6 ➔Section 24. KRS 154.28-010 is amended to read as follows:

7 As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

8 (1) "Activation date" means a date selected by an approved company in the agreement
9 at any time within the two (2) year period after the date of final approval of the
10 agreement by the authority;

11 (2) "Affiliate" has the same meaning as in KRS 154.22-010;

12 (3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS
13 154.28-090, between the authority and an approved company with respect to an
14 economic development project;

15 (4) "Agribusiness" means any activity involving the processing of raw agricultural
16 products, including timber, or the providing of value-added functions with regard to
17 raw agricultural products;

18 (5) "Approved company" means any eligible company, approved by the authority
19 pursuant to KRS 154.28-080, requiring an economic development project;

20 (6) "Approved costs" means:

21 (a) Obligations incurred for labor and to vendors, contractors, subcontractors,
22 builders, suppliers, deliverymen, and materialmen in connection with the
23 acquisition, construction, rehabilitation, and installation of an economic
24 development project;

25 (b) The cost of contract bonds and of insurance of all kinds that may be required
26 or necessary during the course of acquisition, construction, rehabilitation, and
27 installation of an economic project which is not paid by the vendor, supplier,

- 1 deliverymen, contractors, or otherwise else provided;
- 2 (c) All costs of architectural and engineering services, including estimates, plans
3 and specifications, preliminary investigations, and supervision of construction,
4 rehabilitation, and installation, as well as for the performance of all the duties
5 required by or consequent upon the acquisition, construction, rehabilitation,
6 and installation of an economic development project;
- 7 (d) All costs which shall be required to be paid under the terms of any contract for
8 the acquisition, construction, rehabilitation, and installation of an economic
9 development project;
- 10 (e) All costs which shall be required for the installation of utilities such as water,
11 sewer, sewer treatment, gas, electricity, communications, railroads, and
12 similar facilities, and including offsite construction of the facilities paid for by
13 the approved company; and
- 14 (f) All other costs comparable to those described above;
- 15 (7) "Assessment" means the job development assessment fee authorized by KRS
16 154.28-010 to 154.28-100;
- 17 (8) "Authority" means the Kentucky Economic Development Finance Authority created
18 by KRS 154.20-010;
- 19 (9) "Average hourly wage" means the wage and employment data published by the
20 ~~{Office of Employment and Training within the }~~Department of Workforce
21 Investment in the Education and Workforce Development Cabinet collectively
22 translated into wages per hour based on a two thousand eighty (2,080) hour work
23 year for the following sectors:
- 24 (a) Manufacturing;
- 25 (b) Transportation, communications, and public utilities;
- 26 (c) Wholesale and retail trade;
- 27 (d) Finance, insurance, and real estate; and

1 (e) Services;

2 (10) "Commonwealth" means the Commonwealth of Kentucky;

3 (11) (a) "Economic development project" or "project" means and includes:

4 1. The acquisition of ownership in any real estate by the approved
5 manufacturing or agribusiness company or its affiliate;

6 2. The present ownership of real estate by the approved manufacturing or
7 agribusiness company or its affiliate;

8 3. The acquisition or present ownership of improvements or facilities, as
9 described in paragraph (b) of this subsection, on land which is possessed
10 or is to be possessed by the approved company pursuant to a ground
11 lease having a term of sixty (60) years or more; and

12 4. The legal possession of facilities by an approved company or its affiliate
13 pursuant to a lease having a term equal to or greater than ten (10) years
14 with a third-party entity, negotiated at arm's length, if the facility will be
15 used by the approved company to conduct the approved activity for
16 which the inducement has been granted. An economic development
17 project qualifying under this subparagraph shall only be eligible for
18 credits against equipment and costs related to installation of equipment
19 and for purposes of the tax credits provided under the provisions of KRS
20 154.28-010 to 154.28-090 only to the extent of twenty thousand dollars
21 (\$20,000) per job created by and maintained at the economic
22 development project. Notwithstanding KRS 154.28-090, an economic
23 development project qualifying under this subparagraph shall be eligible
24 only for the aggregate assessments pursuant to KRS 154.28-110
25 withheld by the approved company each year and shall not be eligible
26 for credit against Kentucky income tax and limited liability entity tax.

27 (b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real

1 estate shall only include fee ownership of real estate and possession of real
2 estate pursuant to a capital lease as determined in accordance with Statement
3 of Financial Accounting Standards No. 13, Accounting for Leases, issued by
4 the Financial Accounting Standards Board, November 1976. With respect to
5 paragraph (a)1., 2., and 3. of this subsection, the construction, installation,
6 equipping, and rehabilitating of improvements, including fixtures and
7 equipment directly involved in the manufacturing process, and facilities
8 necessary or desirable for improvement of the real estate shall include:
9 surveys, site tests, and inspections; subsurface site work and excavation;
10 removal of structures, roadways, cemeteries, and other site obstructions;
11 filling, grading, provision of drainage, and storm water retention; installation
12 of utilities such as water, sewer, sewage treatment, gas, electricity,
13 communications, and similar facilities; offsite construction of utility
14 extensions to the boundaries of the real estate; and the acquisition,
15 installation, equipping, and rehabilitation of manufacturing facilities or
16 agribusiness operations on the real estate for the use of the approved company
17 or its affiliates for manufacturing or agribusiness operational purposes.
18 Pursuant to paragraph (a)3. and 4. of this subsection and this paragraph, an
19 economic development project shall not include lease payments made
20 pursuant to a ground lease for purposes of the tax credits provided under the
21 provisions of KRS 154.28-010 to 154.28-100. An economic development
22 project shall include the equipping of a facility with equipment but, for
23 purposes of the tax credits provided under the provisions of KRS 154.28-010
24 to 154.28-090, only to the extent of twenty thousand dollars (\$20,000) per job
25 created by and maintained at the economic development project;

26 (12) "Eligible company" means any corporation, limited liability company, partnership,
27 limited partnership, sole proprietorship, trust, or any other entity engaged in

1 manufacturing or agribusiness operations;

2 (13) "Employee benefits" means nonmandated costs paid by an eligible company for its
3 full-time employees for health insurance, life insurance, dental insurance, vision
4 insurance, defined benefits, 401(k), or similar plans;

5 (14) "Full-time employee" means a person employed by an approved company for a
6 minimum of thirty-five (35) hours per week and subject to the state income tax
7 imposed by KRS 141.020;

8 (15) "Inducement" means the assessment or the Kentucky income tax credit as set forth
9 in KRS 154.28-090;

10 (16) "Manufacturing" means any activity involving the manufacturing, processing,
11 assembling, or production of any property, including the processing resulting in a
12 change in the conditions of the property, and any activity functionally related to it,
13 together with storage, warehousing, distribution, and related office facilities;
14 however, "manufacturing" shall not include mining, coal or mineral processing, or
15 extraction of minerals;

16 (17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);

17 (18) "Kentucky gross profits" means "Kentucky gross profits" as defined in KRS
18 141.0401; and

19 (19) "Kentucky gross receipts" means "Kentucky gross receipts" as defined in KRS
20 141.0401.

21 ➔Section 25. KRS 154.32-050 is amended to read as follows:

22 (1) The authority shall identify and certify or decertify enhanced incentive counties on
23 an annual basis as provided in this section.

24 (2) Each fiscal year, the authority shall:

25 (a) Obtain from the ~~Office of Employment and Training within the~~ Department
26 of Workforce Investment in the Education and Workforce Development
27 Cabinet, the final unemployment figures for the prior calendar year for each

- 1 county and for the Commonwealth as a whole;
- 2 (b) Identify those counties which have had:
- 3 1. A countywide unemployment rate that exceeds the statewide
4 unemployment rate in the most recent five (5) consecutive calendar
5 years; or
- 6 2. An average countywide rate of unemployment exceeding the statewide
7 unemployment rate by two hundred percent (200%) in the most recent
8 calendar year; and
- 9 (c) Certify the counties identified in paragraph (b) of this subsection as enhanced
10 incentive counties.
- 11 (3) A county not certified under subsection (2) of this section may also be certified by
12 the authority as an enhanced incentive county if the authority determines the county
13 is one (1) of the sixty (60) most distressed counties in the Commonwealth based on
14 the following criteria with equal weight given to each criterion:
- 15 (a) The average countywide rate of unemployment in the most recent three (3)
16 consecutive calendar years, using the information obtained under subsection
17 (2)(a) of this section;
- 18 (b) The percentage of adults twenty-five (25) years of age and older who have
19 attained at least a high school education or equivalent, on the basis of the most
20 recent data available from the United States Department of Commerce,
21 Bureau of the Census; and
- 22 (c) The quality of the roads in the county. Quality of roads shall be determined by
23 the access within a county to roads, ranked in descending order from best
24 quality to worst quality, as certified to the authority by the Kentucky
25 Transportation Cabinet as follows:
- 26 1. Two (2) or more interstate highways;
- 27 2. One (1) interstate highway;

- 1 3. A state four (4) lane parkway;
- 2 4. A four (4) lane principal arterial access to an interstate highway;
- 3 5. A state two (2) lane parkway; and
- 4 6. None of the preceding road types.
- 5 (4) (a) If the authority determines that an enhanced incentive county no longer meets
- 6 the criteria to be certified as an enhanced incentive county under this section,
- 7 the authority shall decertify that county.
- 8 (b) Any economic development project located in an enhanced incentive county
- 9 that was decertified by the authority after May 1, 2009, shall have until July 1
- 10 of the third year following the fiscal year in which the county was decertified
- 11 to obtain final approval from the authority.
- 12 (5) (a) As used in this subsection, "industrial park" means a regional industrial park
- 13 as defined in KRS 42.4588, or an industrial park created pursuant to an
- 14 interlocal agreement in which revenues are shared as provided in KRS 65.245.
- 15 (b) An economic development project undertaken in an industrial park that is
- 16 located in two (2) or more counties, one (1) of which is an enhanced incentive
- 17 county, may be approved for the enhanced incentive county incentives set
- 18 forth in this subchapter.

19 ➔Section 26. KRS 156.848 is amended to read as follows:

- 20 (1) The *executive director of the Office of Adult Education within the Department of*
- 21 *Workforce Investment in the Education and Workforce Development*
- 22 *Cabinet*~~[vice president of the Kentucky Adult Education Program in the Council on~~
- 23 ~~Postsecondary Education]~~ and the commissioner of education may enter into
- 24 agreements to train workers for new manufacturing jobs in new or expanding
- 25 industries characterized by one (1) or more of the following criteria: a high average
- 26 skill, a high average wage, rapid national growth, or jobs feasible and desirable for
- 27 location in rural regions. Such agreements shall not be subject to the requirements

1 of KRS 45A.045 and KRS 45A.690 to 45A.725 when awarded on the basis of a
2 detailed training plan approved by the appropriate agency head. Reimbursement to
3 the industry shall be made upon submission of documents validating actual training
4 expenditure not to exceed the amount approved by the training plan.

5 (2) The executive director~~[vice president]~~ and the commissioner of education may
6 approve authorization for his or her agency to enter into agreements with industries
7 whereby the industry may be reimbursed directly for the following services:

- 8 (a) The cost of instructors' salaries when the instructor is an employee of the
9 industry to be served;
- 10 (b) Cost of only those supplies, materials, and equipment used exclusively in the
11 training program; and
- 12 (c) Cost of leasing a training facility should a vocational education school or the
13 industrial plant not be available.

14 ➔Section 27. KRS 158.146 is amended to read as follows:

15 (1) No later than December 30, 2000, the Kentucky Department of Education shall
16 establish and implement a comprehensive statewide strategy to provide assistance to
17 local districts and schools to address the student dropout problem in Kentucky
18 public schools. In the development of the statewide strategy, the department shall
19 engage private and public representatives who have an interest in the discussion.
20 The statewide strategy shall build upon the existing programs and initiatives that
21 have proven successful. The department shall also take into consideration the
22 following:

- 23 (a) Analyses of annual district and school dropout data as submitted under KRS
24 158.148 and 158.6453;
- 25 (b) State and federal resources and programs, including, but not limited to,
26 extended school services; early learning centers; family resource and youth
27 service centers; alternative education services; preschool; service learning;

- 1 drug and alcohol prevention programs; School-to-Careers; High Schools that
2 Work; school safety grants; and other relevant programs and services that
3 could be used in a multidimensional strategy;
- 4 (c) Comprehensive student programs and services that include, but are not limited
5 to, identification, counseling, mentoring, and other educational strategies for
6 elementary, middle, and high school students who are demonstrating little or
7 no success in school, who have poor school attendance, or who possess other
8 risk factors that contribute to the likelihood of their dropping out of school;
9 and
- 10 (d) Evaluation procedures to measure progress within school districts, schools,
11 and statewide.
- 12 (2) No state or federal funds for adult education and literacy, including but not limited
13 to funds appropriated under Section 49 of this Act~~[KRS 164.041]~~ or 20 U.S.C. secs.
14 9201 et seq., shall be used to pay for a high school student enrolled in an alternative
15 program operated or contracted by a school district leading to a certificate of
16 completion or a High School Equivalency Diploma.
- 17 (3) The department, with assistance from appropriate agencies, shall provide technical
18 assistance to districts requesting assistance with dropout prevention strategies and
19 the development of district and schoolwide plans.
- 20 (4) The department shall award grants to local school districts for dropout prevention
21 programs based upon available appropriations from the General Assembly and in
22 compliance with administrative regulations promulgated by the Kentucky Board of
23 Education for this purpose. Seventy-five percent (75%) of the available dropout
24 funds shall be directed to services for at-risk elementary and middle school students,
25 including, but not limited to, identification, counseling, home visitations, parental
26 training, and other strategies to improve school attendance, school achievement, and
27 to minimize at-risk factors. Twenty-five percent (25%) of the funds shall be directed

1 to services for high school students identified as likely to drop out of school,
2 including, but not limited to, counseling, tutoring, extra instructional support,
3 alternative programming, and other appropriate strategies. Priority for grants shall
4 be awarded to districts that average, over a three (3) year period, an annual dropout
5 rate exceeding five percent (5%).

6 (5) The department shall disseminate information on best practices in dropout
7 prevention in order to advance the knowledge for district and school level personnel
8 to address the dropout problem effectively.

9 ➔Section 28. KRS 158.360 is amended to read as follows:

10 (1) The ***Office of Adult Education***~~[Kentucky Adult Education Program]~~ shall provide
11 technical assistance to providers to develop family literacy services. The technical
12 assistance shall be evaluated on a regular basis by contracted evaluators outside the
13 program.

14 (2) The services shall:

- 15 (a) Provide parents with instruction in basic academic skills, life skills which
16 include parenting skills, and employability skills;
- 17 (b) Provide the children with developmentally appropriate educational activities;
- 18 (c) Provide planned high-quality educational experiences requiring interaction
19 between parents and their children;
- 20 (d) Be of sufficient intensity and duration to help move families to self-
21 sufficiency and break the cycle of under education and poverty; and
- 22 (e) Be designed to reduce duplication with other educational providers to ensure
23 high quality and efficient services.

24 ➔Section 29. KRS 158.842 is amended to read as follows:

25 (1) As used in KRS 158.840 to 158.844, unless the context requires otherwise:

- 26 (a) "Concepts" means mathematical ideas that serve as the basis for
27 understanding mathematics;

- 1 (b) "Mathematics" means the curriculum of numbers and computations, geometry
2 and measurements, probability and statistics, and algebraic ideas;
- 3 (c) "Mathematics coach" means a mathematics leader whose primary
4 responsibility is to provide ongoing support for one (1) or more mathematics
5 teachers. The role of the coach is to improve mathematics teaching practices
6 by working with teachers in their classrooms, observing and providing
7 feedback to them, modeling appropriate teaching practices, conducting
8 workshops or institutes, establishing learning communities, and gathering
9 appropriate and useful resources;
- 10 (d) "Mathematics diagnostic assessment" means an assessment that identifies a
11 student at risk of failure in mathematics or a student with major deficits in
12 numeracy and other mathematical concepts and skills;
- 13 (e) "Mathematics intervention program" means an intensive instructional program
14 that is based on valid research and is provided by a highly trained teacher to
15 specifically meet individual students' needs;
- 16 (f) "Mathematics leader" means any educator with a specialization in
17 mathematics who:
- 18 1. Serves in a supervisory capacity, such as mathematics department chair,
19 school-based mathematics specialist, or district mathematics supervisor
20 or coordinator; or
 - 21 2. Regularly conducts or facilitates teacher professional development, such
22 as higher education faculty or other mathematics teachers;
- 23 (g) "Mathematics mentor" means an experienced mathematics coach who
24 typically works with beginning or novice teachers only. The responsibilities
25 and roles of the mentor are the same as those of the coach;
- 26 (h) "Numeracy" means the development of the basic concepts which include
27 counting, place value, addition and subtraction strategies, multiplication and

- 1 division strategies, and the concepts of time, money, and length. To be
2 numerate is to have and be able to use appropriate mathematical knowledge,
3 concepts, skills, intuition, and experience in relationship to every day life;
- 4 (i) "Relationships" means connections of mathematical concepts and skills within
5 mathematics; and
- 6 (j) "Skills" means actions of mathematics.
- 7 (2) The Committee for Mathematics Achievement is hereby created for the purposes of
8 developing a multifaceted strategic plan to improve student achievement in
9 mathematics at all levels of schooling, prekindergarten through postsecondary and
10 adult. At a minimum the plan shall address:
- 11 (a) Challenging curriculum that is aligned prekindergarten through postsecondary,
12 including consensus among high school teachers and postsecondary education
13 faculty about expectations, curriculum, and assessment;
- 14 (b) Attitudes and beliefs of teachers about mathematics;
- 15 (c) Teachers' knowledge of mathematics;
- 16 (d) Diagnostic assessment, intervention services, and instructional strategies;
- 17 (e) Shortages of teachers of mathematics, including incentives to attract strong
18 candidates to mathematics teaching;
- 19 (f) Statewide institutes that prepare cadres of mathematics leaders in local school
20 districts, which may include highly skilled retired mathematics teachers, to
21 serve as coaches and mentors in districts and schools;
- 22 (g) Cohesive continuing education options for experienced mathematics
23 classroom teachers;
- 24 (h) Closing the student achievement gap among various student subpopulations;
- 25 (i) Curriculum expectations and assessments of students among the various
26 school levels, prekindergarten, primary, elementary, middle, and high school;
- 27 (j) Content standards for adult education centers providing mathematics

1 curricula;

2 (k) Introductory postsecondary education mathematics courses that are
3 appropriate to the wide array of academic programs and majors;

4 (l) Research to analyze further the issues of transition from high school or High
5 School Equivalency Diploma programs to postsecondary education
6 mathematics; and

7 (m) The early mathematics testing program under KRS 158.803.

8 Other factors may be included in the strategic plan as deemed appropriate by the
9 committee to improve mathematics achievement of Kentucky students.

10 (3) In carrying out its responsibility under subsection (2)(f) of this section, the
11 committee shall:

12 (a) Design a statewide professional development program that includes summer
13 mathematics institutes at colleges and universities, follow-up, and school-
14 based support services, beginning no later than June 1, 2006, to prepare teams
15 of teachers as coaches and mentors of mathematics at all school levels to
16 improve student achievement. Teachers shall receive training in diagnostic
17 assessment and intervention. The statewide initiative shall be funded, based
18 on available funds, from the Teachers' Professional Growth Fund described in
19 KRS 156.553. The design shall:

20 1. Define the curricula focus;

21 2. Build on the expertise of specific colleges and universities;

22 3. Place emphasis on mathematics concepts, skills and relationships,
23 diagnostic assessment, intervention services, and instructional strategies;

24 4. Identify quality control measures for the delivery of each institute;

25 5. Establish evaluation procedures for the summer institutes and the other
26 professional development components;

27 6. Provide updates and networking opportunities for coaches and mentors

- 1 throughout the school year; and
- 2 7. Define other components within the initiative that are necessary to meet
- 3 the goal of increasing student achievement in mathematics;
- 4 (b) Require schools and districts approved to have participants in the mathematics
- 5 leader institutes to provide assurances that:
- 6 1. The district and schools have, or will develop, local mathematics
- 7 curricula and assessments that align with state standards for
- 8 mathematics;
- 9 2. There is a local commitment to build a cadre of mathematics leaders
- 10 within the district;
- 11 3. The district and participating schools will provide in-school support for
- 12 coaching and mentoring activities;
- 13 4. The mathematics teachers are willing to develop classroom assessments
- 14 that align with state assessments; and
- 15 5. Students who need modified instructional and intervention services will
- 16 have opportunity for continuing education services beyond the regular
- 17 school day, week, or year; and
- 18 (c) In addition to the conditions specified in paragraph (b) of this subsection, the
- 19 committee shall make recommendations to the Kentucky Department of
- 20 Education and the Kentucky Board of Education for criteria to be included in
- 21 administrative regulations promulgated by the board which define:
- 22 1. Eligible grant recipients, taking into consideration how this program
- 23 relates to other funded mathematics initiatives;
- 24 2. The application process and review;
- 25 3. The responsibilities of schools and districts, including but not limited to
- 26 matching funds requirements, released or extended time for coaches and
- 27 mentors during the school year, continuing education requirements for

1 teachers and administrators in participating schools, data to be collected,
2 and local evaluation requirements; and

3 4. Other recommendations requested by the Kentucky Department of
4 Education.

- 5 (4) The committee shall initially be composed of twenty-five (25) members as follows:
- 6 (a) The commissioner of education or his or her designee;
 - 7 (b) The president of the Council on Postsecondary Education or his or her
8 designee;
 - 9 (c) The president of the Association of Independent Kentucky Colleges and
10 Universities or his or her designee;
 - 11 (d) The executive director of the Education Professional Standards Board or his
12 or her designee;
 - 13 (e) The secretary of the Education and Workforce Development Cabinet or his or
14 her designee;
 - 15 (f) A representative with a specialty in mathematics or mathematics education
16 who has expertise and experience in professional development, especially
17 with coaching and mentoring of teachers, from each of the nine (9) public
18 postsecondary education institutions defined in KRS 164.001. The
19 representatives shall be selected by mutual agreement of the president of the
20 Council on Postsecondary Education and the commissioner of education;
 - 21 (g) Two (2) adult education instructors selected by the **secretary of the Education**
22 **and Workforce Development Cabinet**~~[vice president for Kentucky Adult~~
23 ~~Education]~~;
 - 24 (h) Two (2) elementary, two (2) middle, and two (2) high school mathematics
25 teachers, appointed by the board of the statewide professional education
26 association having the largest paid membership with approval from their
27 respective local principals and superintendents of schools; and

- 1 (i) Three (3) school administrators, with one (1) each representing elementary,
2 middle, and high school, appointed by the board of the statewide
3 administrators' association having the largest paid membership with approval
4 from their respective local superintendents of schools.

5 When the Center for Mathematics created under KRS 164.525 becomes operational,
6 the executive director of the center shall be added to the committee, which shall
7 then be composed of twenty-six (26) members. Appointments to the committee
8 shall be made no later than thirty (30) days following March 18, 2005, and the first
9 meeting of the committee shall occur no later than thirty (30) days following
10 appointment of the members.

11 (5) A majority of the full membership shall constitute a quorum.

12 (6) Each member of the committee, other than members who serve by virtue of their
13 positions, shall serve for a term of three (3) years or until a successor is appointed
14 and qualified, except that the initial appointments shall be made in the following
15 manner: six (6) members shall serve a one (1) year term, six (6) members shall
16 serve a two (2) year term, and eight (8) members shall serve a three (3) year term.

17 (7) A temporary chair of the committee shall be appointed prior to the first meeting of
18 the committee through consensus of the president of the Council on Postsecondary
19 Education and the commissioner of education, to serve ninety (90) days after his or
20 her appointment. Prior to the end of the ninety (90) days, the committee shall elect a
21 chair by majority vote. The temporary chair may be a nominee for the chair by
22 majority vote. Thereafter, a chair shall be elected each calendar year. An individual
23 may not serve as chair for more than three (3) consecutive years. The chair shall be
24 the presiding officer of the committee, and coordinate the functions and activities of
25 the committee.

26 (8) The committee shall be attached to the Kentucky Department of Education for
27 administrative purposes. The commissioner of education may contract with a

1 mathematics-trained professional to provide part-time staff support to the
2 committee. The commissioner of education and the president of the council shall
3 reach consensus in the selection of a person to fill the position. The person selected
4 shall have a graduate degree, a mathematics major, and teaching or administrative
5 experience in elementary and secondary education. The person shall not be a current
6 employee of any entity represented on the committee. The department shall provide
7 office space and other resources necessary to support the staff position and the work
8 of the committee.

9 (9) The committee, under the leadership of the chair, may organize itself into
10 appropriate subcommittees and work structures to accomplish the purposes of the
11 committee.

12 (10) Members of the committee shall serve without compensation but shall be
13 reimbursed for necessary travel and expenses while attending meetings at the same
14 per diem rate promulgated in administrative regulation for state employees under
15 provisions of KRS Chapter 45. Funds shall be provided school districts to cover the
16 cost of substitute teachers for those teachers on the committee at each district's
17 established rate for substitute teachers.

18 (11) If a vacancy occurs within the committee during its duration, the board of the
19 statewide professional education association having the largest paid membership or
20 the board of the statewide administrators association having the largest paid
21 membership or the president of the Council on Postsecondary Education, as
22 appropriate, shall appoint a person to fill the vacancy.

23 (12) The committee shall:

24 (a) Present a draft strategic plan addressing the requirements in subsection (1) of
25 this section and other issues that arose during the work of the committee to the
26 Education Assessment and Accountability Review Subcommittee no later than
27 August 2005;

- 1 (b) Present the strategic plan for improving mathematics achievement to the
2 Interim Joint Committee on Education by July 15, 2006, which shall include
3 any recommendations that require legislative action; and
- 4 (c) Provide a final written report of committee activities to the Interim Joint
5 Committee on Education and the Legislative Research Commission by
6 December 1, 2006.
- 7 (13) The committee shall have ongoing responsibility for providing advice and guidance
8 to policymakers in the development of statewide policies and in the identification
9 and allocation of resources to improve mathematics achievement. In carrying out
10 this responsibility, the committee shall periodically review the strategic plan and
11 make modifications as deemed appropriate and report those to the Interim Joint
12 Committee on Education.
- 13 (14) The committee shall collaborate with the Center for Mathematics to ensure that
14 there is ongoing identification of research-based intervention programs for K-12
15 students who have fallen behind in mathematics, rigorous mathematics curricula
16 that prepare students for the next level of schooling, research-based professional
17 development models that prepare teachers in mathematics and pedagogy, and
18 strategies for closing the gap between high school or a High School Equivalency
19 Diploma program and postsecondary mathematics preparation.
- 20 ➔Section 30. KRS 161.011 is amended to read as follows:
- 21 (1) (a) "Classified employee" means an employee of a local district who is not
22 required to have certification for his position as provided in KRS 161.020; and
23 (b) "Seniority" means total continuous months of service in the local school
24 district, including all approved paid and unpaid leave.
- 25 (2) The commissioner of education shall establish by January, 1992, job classifications
26 and minimum qualifications for local district classified employment positions which
27 shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be

1 a classified employee or receive salary for services rendered in that position unless
2 he holds the qualifications for the position as established by the commissioner of
3 education.

4 (3) No person who is initially hired after July 13, 1990, shall be eligible to hold the
5 position of a classified employee or receive salary for services rendered in such
6 position, unless he holds at least a high school diploma or high school certificate of
7 completion or High School Equivalency Diploma, or he shows progress toward
8 obtaining a High School Equivalency Diploma. To show progress toward obtaining
9 a High School Equivalency Diploma, a person shall be enrolled in a High School
10 Equivalency Diploma program and be progressing satisfactorily through the
11 program, as defined by administrative regulations promulgated by the Education
12 and Workforce Development Cabinet~~[Council on Postsecondary Education]~~.

13 (4) Local school districts shall encourage classified employees who were initially hired
14 before July 13, 1990, and who do not have a high school diploma or a High School
15 Equivalency Diploma to enroll in a program to obtain a High School Equivalency
16 Diploma.

17 (5) Local districts shall enter into written contracts with classified employees. Contracts
18 with classified employees shall be renewed annually except contracts with the
19 following employees:

20 (a) An employee who has not completed four (4) years of continuous active
21 service, upon written notice which is provided or mailed to the employee by
22 the superintendent, no later than May 15, that the contract will not be renewed
23 for the subsequent school year. Upon written request by the employee, within
24 ten (10) days of the receipt of the notice of nonrenewal, the superintendent
25 shall provide, in a timely manner, written reasons for the nonrenewal.

26 (b) An employee who has completed four (4) years of continuous active service,
27 upon written notice which is provided or mailed to the employee by the

1 superintendent, no later than May 15, that the contract is not being renewed
2 due to one (1) or more of the reasons described in subsection (7) of this
3 section. Upon written request within ten (10) days of the receipt of the notice
4 of nonrenewal, the employee shall be provided with a specific and complete
5 written statement of the grounds upon which the nonrenewal is based. The
6 employee shall have ten (10) days to respond in writing to the grounds for
7 nonrenewal.

8 (6) Local districts shall provide in contracts with classified employees of family
9 resource and youth services centers the same rate of salary adjustment as provided
10 for other local board of education employees in the same classification.

11 (7) Nothing in this section shall prevent a superintendent from terminating a classified
12 employee for incompetency, neglect of duty, insubordination, inefficiency,
13 misconduct, immorality, or other reasonable grounds which are specifically
14 contained in board policy.

15 (8) The superintendent shall have full authority to make a reduction in force due to
16 reductions in funding, enrollment, or changes in the district or school boundaries, or
17 other compelling reasons as determined by the superintendent.

18 (a) When a reduction of force is necessary, the superintendent shall, within each
19 job classification affected, reduce classified employees on the basis of
20 seniority and qualifications with those employees who have less than four (4)
21 years of continuous active service being reduced first.

22 (b) If it becomes necessary to reduce employees who have more than four (4)
23 years of continuous active service, the superintendent shall make reductions
24 based upon seniority and qualifications within each job classification affected.

25 (c) Employees with more than four (4) years of continuous active service shall
26 have the right of recall positions if positions become available for which they
27 are qualified. Recall shall be done according to seniority with restoration of

1 primary benefits, including all accumulated sick leave and appropriate rank
2 and step on the current salary schedule based on the total number of years of
3 service in the district.

4 (9) Local school boards shall develop and provide to all classified employees written
5 policies which shall include but not be limited to:

6 (a) Terms and conditions of employment;

7 (b) Identification and documentation of fringe benefits, employee rights, and
8 procedures for the reduction or laying off of employees; and

9 (c) Discipline guidelines and procedures that satisfy due process requirements.

10 (10) Local school boards shall maintain a registry of all vacant classified employee
11 positions that is available for public inspection in a location determined by the
12 superintendent and make copies available at cost to interested parties. If financially
13 feasible, local school boards may provide training opportunities for classified
14 employees focusing on topics to include but not be limited to suicide prevention,
15 abuse recognition, and cardiopulmonary resuscitation (CPR). If suicide prevention
16 training is offered it may be accomplished through self-study review of suicide
17 prevention materials.

18 (11) The evaluation of the local board policies required for classified personnel as set out
19 in this section shall be subject to review by the Department of Education while it is
20 conducting district management audits pursuant to KRS 158.785.

21 ➔Section 31. KRS 161.220 is amended to read as follows:

22 As used in KRS 161.220 to 161.716 and 161.990:

23 (1) "Retirement system" means the arrangement provided for in KRS 161.220 to
24 161.716 and 161.990 for payment of allowances to members;

25 (2) "Retirement allowance" means the amount annually payable during the course of his
26 natural life to a member who has been retired by reason of service;

27 (3) "Disability allowance" means the amount annually payable to a member retired by

1 reason of disability;

2 (4) "Member" means the commissioner of education, deputy commissioners, associate
3 commissioners, and all division directors in the State Department of Education,
4 employees participating in the system pursuant to KRS 196.167(3)(b)1., and any
5 full-time teacher or professional occupying a position requiring certification or
6 graduation from a four (4) year college or university, as a condition of employment,
7 and who is employed by public boards, institutions, or agencies as follows:

8 (a) Local boards of education;

9 (b) Eastern Kentucky University, Kentucky State University, Morehead State
10 University, Murray State University, Western Kentucky University, and any
11 community colleges established under the control of these universities;

12 (c) State-operated secondary area vocational education or area technology centers,
13 Kentucky School for the Blind, and Kentucky School for the Deaf;

14 (d) The Education Professional Standards Board, other public education agencies
15 as created by the General Assembly, and those members of the administrative
16 staff of the Teachers' Retirement System of the State of Kentucky whom the
17 board of trustees may designate by administrative regulation;

18 (e) Regional cooperative organizations formed by local boards of education or
19 other public educational institutions listed in this subsection, for the purpose
20 of providing educational services to the participating organizations;

21 (f) All full-time members of the staffs of the Kentucky Association of School
22 Administrators, Kentucky Education Association, Kentucky Vocational
23 Association, Kentucky High School Athletic Association, Kentucky Academic
24 Association, and the Kentucky School Boards Association who were members
25 of the Kentucky Teachers' Retirement System or were qualified for a position
26 covered by the system at the time of employment by the association in the
27 event that the board of directors of the respective association petitions to be

1 included. The board of trustees of the Kentucky Teachers' Retirement System
2 may designate by resolution whether part-time employees of the petitioning
3 association are to be included, except as limited by KRS 161.612. The state
4 shall make no contributions on account of these employees, either full-time or
5 part-time. The association shall make the employer's contributions, including
6 any contribution that is specified under KRS 161.550. The provisions of this
7 paragraph shall be applicable to persons in the employ of the associations on
8 or subsequent to July 1, 1972;

9 (g) Employees of the Council on Postsecondary Education who were employees
10 of the Department for Adult Education and Literacy and who were members
11 of the Kentucky Teachers' Retirement System at the time the department was
12 transferred to the council pursuant to Executive Order 2003-600;

13 (h) The Office of Career and Technical Education, except that the executive
14 director shall not be a member;

15 (i) The Office of Vocational Rehabilitation;

16 (j) The Kentucky Educational Collaborative for State Agency Children;

17 (k) The Governor's Scholars Program;

18 (l) Any person who is retired for service from the retirement system and is
19 reemployed by an employer identified in this subsection in a position that the
20 board of trustees deems to be a member, except that any person who retires on
21 or after January 1, 2019, shall upon reemployment after retirement not earn a
22 second retirement account;

23 (m) Employees of the former Cabinet for Workforce Development who are
24 transferred to the Kentucky Community and Technical College System and
25 who occupy positions covered by the Kentucky Teachers' Retirement System
26 shall remain in the Teachers' Retirement System. New employees occupying
27 these positions, as well as newly created positions qualifying for Teachers'

1 Retirement System coverage that would have previously been included in the
2 former Cabinet for Workforce Development, shall be members of the
3 Teachers' Retirement System;

4 (n) Effective January 1, 1998, employees of state community colleges who are
5 transferred to the Kentucky Community and Technical College System shall
6 continue to participate in federal old age, survivors, disability, and hospital
7 insurance, and a retirement plan other than the Kentucky Teachers' Retirement
8 System offered by Kentucky Community and Technical College System. New
9 employees occupying positions in the Kentucky Community and Technical
10 College System as referenced in KRS 164.5807(5) that would not have
11 previously been included in the former Cabinet for Workforce Development,
12 shall participate in federal old age, survivors, disability, and hospital insurance
13 and have a choice at the time of employment of participating in a retirement
14 plan provided by the Kentucky Community and Technical College System,
15 including participation in the Kentucky Teachers' Retirement System, on the
16 same basis as faculty of the state universities as provided in KRS 161.235,
17 161.540, and 161.620;

18 (o) Employees of the Office of General Counsel, the Office of Budget and
19 Administrative Services, and the Office of Quality and Human Resources
20 within the Office of the Secretary of the former Cabinet for Workforce
21 Development and the commissioners of the former Department for Adult
22 Education and Literacy and the former Department for Technical Education
23 who were contributing to the Kentucky Teachers' Retirement System as of
24 July 15, 2000;

25 (p) Employees of the Kentucky Department of Education only who are graduates
26 of a four (4) year college or university, notwithstanding a substitution clause
27 within a job classification, and who are serving in a professional job

1 classification as defined by the department; and

2 (q) The Governor's School for Entrepreneurs Program; and

3 (r) Employees of the Office of Adult Education within the Department of
4 Workforce Investment in the Education and Workforce Development
5 Cabinet who were employees of the Council on Postsecondary Education,
6 Kentucky Adult Education Program and who were members of the
7 Kentucky Teachers' Retirement System at the time the program was
8 transferred to the cabinet pursuant to Executive Orders 2019-0026 and
9 2019-0027.

10 (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940,
11 and became a member of the retirement system created by 1938 (1st Extra. Sess.)
12 Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year
13 after that date, and any teacher who was a member of a local teacher retirement
14 system in the public elementary or secondary schools of the state on or before July
15 1, 1940, and continued to be a member of the system until he, with the membership
16 of the local retirement system, became a member of the state Teachers' Retirement
17 System or who becomes a member under the provisions of KRS 161.470(4);

18 (6) "New teacher" means any member not a present teacher;

19 (7) "Prior service" means the number of years during which the member was a teacher
20 in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior
21 service shall be allowed or credited to any teacher;

22 (8) "Subsequent service" means the number of years during which the teacher is a
23 member of the Teachers' Retirement System after July 1, 1941;

24 (9) "Final average salary" means the average of the five (5) highest annual salaries
25 which the member has received for service in a covered position and on which the
26 member has made contributions, or on which the public board, institution, or
27 agency has picked-up member contributions pursuant to KRS 161.540(2), or the

1 average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a),
2 which shall include picked-up member contributions. Additionally, the board of
3 trustees may approve a final average salary based upon the average of the three (3)
4 highest salaries for members who are at least fifty-five (55) years of age and have a
5 minimum of twenty-seven (27) years of Kentucky service credit. However, if any of
6 the five (5) or three (3) highest annual salaries used to calculate the final average
7 salary was paid within the three (3) years immediately prior to the date of the
8 member's retirement, the amount of salary to be included for each of those three (3)
9 years for the purpose of calculating the final average salary shall be limited to the
10 lesser of:

- 11 (a) The member's actual salary; or
- 12 (b) The member's annual salary that was used for retirement purposes during each
13 of the prior three (3) years, plus a percentage increase equal to the percentage
14 increase received by all other members employed by the public board,
15 institution, or agency, or for members of school districts, the highest
16 percentage increase received by members on any one (1) rank and step of the
17 salary schedule of the school district. The increase shall be computed on the
18 salary that was used for retirement purposes.

19 This limitation shall not apply if the member receives an increase in salary in a
20 percentage exceeding that received by the other members, and this increase was
21 accompanied by a corresponding change in position or in length of employment.

22 This limitation shall also not apply to the payment to a member for accrued annual
23 leave if the individual becomes a member before July 1, 2008, or accrued sick leave
24 which is authorized by statute and which shall be included as part of a retiring
25 member's annual compensation for the member's last year of active service as
26 provided by KRS 161.155;

27 (10) "Annual compensation" means the total salary received by a member as

1 compensation for all services performed in employment covered by the retirement
2 system during a fiscal year. Annual compensation shall not include payment for any
3 benefit or salary adjustments made by the public board, institution, or agency to the
4 member or on behalf of the member which is not available as a benefit or salary
5 adjustment to other members employed by that public board, institution, or agency.
6 Annual compensation shall not include the salary supplement received by a member
7 under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no
8 circumstances shall annual compensation include compensation that is earned by a
9 member while on assignment to an organization or agency that is not a public board,
10 institution, or agency listed in subsection (4) of this section. In the event that federal
11 law requires that a member continue membership in the retirement system even
12 though the member is on assignment to an organization or agency that is not a
13 public board, institution, or agency listed in subsection (4) of this section, the
14 member's annual compensation for retirement purposes shall be deemed to be the
15 annual compensation, as limited by subsection (9) of this section, last earned by the
16 member while still employed solely by and providing services directly to a public
17 board, institution, or agency listed in subsection (4) of this section. The board of
18 trustees shall determine if any benefit or salary adjustment qualifies as annual
19 compensation. For an individual who becomes a member on or after July 1, 2008,
20 annual compensation shall not include lump-sum payments upon termination of
21 employment for accumulated annual or compensatory leave;

22 (11) "Age of member" means the age attained on the first day of the month immediately
23 following the birthdate of the member. This definition is limited to retirement
24 eligibility and does not apply to tenure of members;

25 (12) "Employ," and derivatives thereof, means relationships under which an individual
26 provides services to an employer as an employee, as an independent contractor, as
27 an employee of a third party, or under any other arrangement as long as the services

1 provided to the employer are provided in a position that would otherwise be covered
2 by the Kentucky Teachers' Retirement System and as long as the services are being
3 provided to a public board, institution, or agency listed in subsection (4) of this
4 section;

5 (13) "Regular interest" means interest at three percent (3%) per annum, except:

6 (a) For an individual who becomes a member on or after July 1, 2008, but prior to
7 January 1, 2019, "regular interest" means interest at two and one-half percent
8 (2.5%) per annum for purposes of crediting interest to the teacher savings
9 account or any other contributions made by the employee that are refundable
10 to the employee upon termination of employment; and

11 (b) For an individual who becomes a member on or after January 1, 2019, who is
12 participating in the hybrid cash balance plan, "regular interest" means the
13 regular interest credited to the member's accumulated account balance as
14 provided by KRS 161.235;

15 (14) "Accumulated contributions" means the contributions of a member to the teachers'
16 savings fund, including picked-up member contributions as described in KRS
17 161.540(2), plus accrued regular interest;

18 (15) "Annuitant" means a person who receives a retirement allowance or a disability
19 allowance;

20 (16) "Local retirement system" means any teacher retirement or annuity system created
21 in any public school district in Kentucky in accordance with the laws of Kentucky;

22 (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The
23 retirement plan year is concurrent with this fiscal year. A contract for a member
24 employed by a local board of education may not exceed two hundred sixty-one
25 (261) days in the fiscal year;

26 (18) "Public schools" means the schools and other institutions mentioned in subsection
27 (4) of this section;

- 1 (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was
2 receiving, at the time of death of the member, at least one-half (1/2) of the support
3 from the member for maintenance, including board, lodging, medical care, and
4 related costs;
- 5 (20) "Active contributing member" means a member currently making contributions to
6 the Teachers' Retirement System, who made contributions in the next preceding
7 fiscal year, for whom picked-up member contributions are currently being made, or
8 for whom these contributions were made in the next preceding fiscal year;
- 9 (21) "Full-time" means employment in a position that requires services on a continuing
10 basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year
11 basis;
- 12 (22) "Full actuarial cost," when used to determine the payment that a member must pay
13 for service credit means the actuarial value of all costs associated with the
14 enhancement of a member's benefits or eligibility for benefit enhancements,
15 including health insurance supplement payments made by the retirement system.
16 The actuary for the retirement system shall determine the full actuarial value costs
17 and actuarial cost factor tables as provided in KRS 161.400;
- 18 (23) "Last annual compensation" means the annual compensation, as defined by
19 subsection (10) of this section and as limited by subsection (9) of this section,
20 earned by the member during the most recent period of contributing service, either
21 consecutive or nonconsecutive, that is sufficient to provide the member with one (1)
22 full year of service credit in the Kentucky Teachers' Retirement System, and which
23 compensation is used in calculating the member's initial retirement allowance,
24 excluding bonuses, retirement incentives, payments for accumulated sick leave
25 authorized by KRS 161.155, annual, personal, and compensatory leave, and any
26 other lump-sum payment. For an individual who becomes a member on or after July
27 1, 2008, payments for annual or compensatory leave shall not be included in

- 1 determining the member's last annual compensation;
- 2 (24) "Participant" means a member, as defined by subsection (4) of this section, or an
3 annuitant, as defined by subsection (15) of this section;
- 4 (25) "Qualified domestic relations order" means any judgment, decree, or order,
5 including approval of a property settlement agreement, that:
- 6 (a) Is issued by a court or administrative agency; and
7 (b) Relates to the provision of child support, alimony payments, or marital
8 property rights to an alternate payee;
- 9 (26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
10 participant, who is designated to be paid retirement benefits in a qualified domestic
11 relations order;
- 12 (27) "University member" means an individual who becomes a member through
13 employment with an employer specified in subsection (4)(b) and (n) of this section;
- 14 (28) "Nonuniversity member" means an individual who becomes a member through
15 employment with an employer specified under subsection (4) of this section, except
16 for those members employed by an employer specified in subsection (4)(b) and (n)
17 of this section;
- 18 (29) "Accumulated employer credit" means the employer pay credit deposited to the
19 member's account and regular interest credited on such amounts as provided by
20 KRS 161.235; and
- 21 (30) "Accumulated account balance" means:
- 22 (a) For members who began participating in the system prior to January 1, 2019,
23 the member's accumulated contributions; or
24 (b) For members who began participating in the system on or after January 1,
25 2019, in the hybrid cash balance plan as provided by KRS 161.235, the
26 combined sum of the member's accumulated contributions and the member's
27 accumulated employer credit.

1 ➔Section 32. KRS 163.460 is amended to read as follows:

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

- 3 (1) "Office" means the Office~~[for the Blind]~~ **of Vocational Rehabilitation, or the duly**
 4 **authorized division within the Office of Vocational Rehabilitation;**
- 5 (2) "Legally blind" means a visual acuity of 20/200 or less in the better eye with
 6 correction or a visual field of 20 degrees or less;
- 7 (3) "Visually impaired" means a condition of the eye with correction which constitutes
 8 or progressively results for the individual in a substantial disability to employment;
 9 and
- 10 (4) "Executive director" means the executive director of the Office **of Vocational**
 11 **Rehabilitation or the director of the duly authorized division within the Office of**
 12 **Vocational Rehabilitation**~~[for the Blind].~~

13 ➔Section 33. KRS 163.470 is amended to read as follows:

14 (1) ~~There is created within the Education and Workforce Development Cabinet the~~
 15 ~~Office for the Blind.~~

16 ~~(2)~~ The executive director shall be appointed by the secretary of the Education and
 17 Workforce Development Cabinet pursuant to KRS 12.050.

18 ~~(2)~~~~(3)~~ The office shall be the state agency responsible for all rehabilitation services
 19 for the blind and the visually impaired and other services as deemed necessary. The
 20 office shall be the agency authorized to expend all state and federal funds
 21 designated for rehabilitation services for the blind and visually impaired. The Office
 22 of the Secretary of the Education and Workforce Development Cabinet is
 23 authorized as the state agency to receive all state and federal funds and gifts and
 24 bequests for the benefit of rehabilitation services for the blind and visually
 25 impaired. The State Treasurer is designated as the custodian of all funds and shall
 26 make disbursements for rehabilitation purposes upon certification by the executive
 27 director.

1 ~~(3)[(4) — (a) — The Kentucky Office for the Blind State Rehabilitation Council is~~
2 ~~hereby created and established to accomplish the purposes and functions~~
3 ~~enumerated in the Rehabilitation Act of 1973, as amended. Members of the~~
4 ~~council shall be appointed by the Governor from recommendations submitted~~
5 ~~by the Office for the Blind consistent with the federal mandate to include a~~
6 ~~majority of individuals who are blind or visually impaired representing~~
7 ~~specified organizations, service providers, and advocacy groups. The~~
8 ~~composition, qualifications, and terms of service of the council shall conform~~
9 ~~to those prescribed by the federal law. There shall be statewide representation~~
10 ~~on the council.~~

11 ~~(b) — 1. — Except as provided in subparagraph 2. of this paragraph, any vacancy~~
12 ~~occurring in the membership of the Office for the Blind State~~
13 ~~Rehabilitation Council shall be filled in the same manner as the original~~
14 ~~appointment. The vacancy shall not affect the power of the remaining~~
15 ~~members of the council.~~

16 ~~2. — The Governor may delegate the authority to fill a vacancy to the~~
17 ~~remaining voting members of the council.~~

18 ~~(c) — Each member of the Office for the Blind State Rehabilitation Council may~~
19 ~~receive a per diem of one hundred dollars (\$100), not to exceed six hundred~~
20 ~~dollars (\$600) annually, for each regular or special meeting attended if the~~
21 ~~member is not employed or must forfeit wages from other employment. Each~~
22 ~~member may have travel expenses approved at the established state rate and~~
23 ~~expenses reimbursed at the established state agency rate for services such as~~
24 ~~personal assistance, child care, and drivers for attendance at council meetings,~~
25 ~~and in the performance of duties authorized by the Kentucky Office for the~~
26 ~~Blind State Rehabilitation Council. The per diem and expenses shall be paid~~
27 ~~out of the federal funds appropriated under the Rehabilitation Act of 1973, as~~

1 ~~amended.~~

2 ~~(5)~~ The office shall establish and implement policies and procedures for the carrying
3 out of the program of services for the blind.

4 ~~(4)~~~~(6)~~ At the close of each biennium, the office shall prepare a financial report and
5 present it to the secretary of the Education and Workforce Development Cabinet
6 and to the Governor. The biennial report shall be published. The biennial report
7 shall also contain a precise review of the work of the office and contain necessary
8 suggestions for improvement.

9 ~~(5)~~~~(7)~~ The office shall coordinate its functions with other appropriate public and
10 private agencies.

11 ~~(6)~~~~(8)~~ The office shall perform all other duties as required of it by law.

12 ~~(7)~~~~(9)~~ The executive director shall hire personnel as necessary to carry out the work
13 of the office and the provisions of KRS 163.450 to 163.470. Preference shall be
14 given to hiring qualified blind persons.

15 ~~(8)~~ ~~[(10) There shall be created under the authority of the office, to be directed by a~~
16 ~~director appointed by the secretary of the Education and Workforce Development~~
17 ~~Cabinet pursuant to KRS 12.050, a Division of Consumer Services which]~~ **The**
18 **Office of Vocational Rehabilitation** shall provide intake and rehabilitation
19 counseling services; distribute or sell technical educational and other aids to the
20 blind; provide educational materials such as recorded texts, braille or large-type
21 texts, or such other materials as may be deemed necessary for the education of the
22 blind; research into the development of new technical aids for the blind, mobility
23 training, work evaluation, personal adjustment, independent living, and other
24 services as needed for blind adults, and services for the blind who have other
25 disabilities; and promote employment of the blind in public and private sectors.

26 ~~(9)~~~~(11)~~ There shall be established under the authority of the office, to be directed by a
27 director appointed by the secretary pursuant to KRS 12.050, the Division of

1 Kentucky Business Enterprise. This division shall manage and supervise the
2 Vending Facilities Program and license qualified blind persons as vendors. In
3 connection therewith, the office shall be authorized to own or lease vending
4 equipment for the operation of vending facilities in federal, state, private, and other
5 buildings. The set-aside charges levied shall comply with the existing federal
6 regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents
7 shall be employed to locate and establish additional vending facilities. The office
8 ~~for the Blind~~ shall make such surveys as may be deemed necessary to determine
9 the vending facility opportunities for blind vendors in state buildings or on other
10 property owned, leased, or otherwise occupied by the state government and shall
11 install vending facilities in suitable locations on such property for the use of the
12 blind. All of the net income from vending machines which are on the same property
13 as a vending facility shall be paid to the blind vendor of the vending facility.
14 Whenever there exists a conflict of interest between state agencies seeking to vend
15 merchandise on the same state property, the agencies shall negotiate a fair
16 agreement which shall protect the interest of both from unreasonable competition.
17 The agreement shall be submitted to the custodial authority having jurisdiction over
18 the property for approval. Provided, however, that in all situations the blind vendor
19 shall be permitted to vend all items of merchandise customarily sold at similar
20 vending facilities.

21 (10)~~(12)~~ The office ~~for the Blind~~, at all times, shall be authorized to provide
22 industrial evaluation, training, and employment. The office shall provide staff
23 services which shall include staff development and training, program development
24 and evaluation, and other staff services as may be deemed necessary.

25 (11)~~(13)~~ The provisions of any other statute notwithstanding, the executive director is
26 authorized to use receipt of funds from the Social Security reimbursement program
27 for a direct service delivery staff incentive program. Incentives may be awarded if

1 case service costs are reimbursed for job placement of Social Security or
2 Supplemental Security Income recipients at the Substantial Gainful Activity (SGA)
3 level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions
4 and criteria as are established by the federal reimbursement program.

5 ➔Section 34. KRS 163.475 is amended to read as follows:

6 (1) The General Assembly finds that the provision of industrial evaluation, training,
7 and employment opportunities for individuals who are blind or visually impaired is
8 a valuable and necessary component of vocational rehabilitation services. The office
9 ~~for the Blind~~ has sole responsibility for and the obligation to operate and manage a
10 Division of the Kentucky Industries for the Blind. This facility has struggled to meet
11 these mandates but, faced with declining available state revenues, expects a
12 continual diminishment to a submarginal operation with respect to providing viable
13 long-term employment opportunities that are self-sustaining and sufficiently
14 diversified for individuals who are blind or visually impaired.

15 (2) The General Assembly finds that increased flexibility in contract negotiation,
16 purchasing, and hiring will enhance the competitiveness of the Kentucky Industries
17 for the Blind, resulting in additional production contracts thereby guaranteeing
18 continued and expanded jobs and other opportunities for individuals who are blind
19 or visually impaired. This flexibility and competitiveness can be achieved through
20 the operation of the Kentucky Industries for the Blind by a nonprofit corporation,
21 the members of which have expertise in management skills and background
22 pertaining to sound business practices and rehabilitation philosophy.

23 (3) The General Assembly finds that a transition period from state division to a
24 nonprofit operation is necessary to ensure the success and continuation of the
25 important functions of the Kentucky Industries for the Blind. Therefore, the General
26 Assembly shall continue to support the Division of the Kentucky Industries for the
27 Blind through appropriations to the office ~~for the Blind~~ for six (6) years in order to

1 eliminate eventually the necessity for annual state appropriations. The office~~[for the~~
2 ~~Blind]~~ shall monitor and safeguard the expenditure of those public moneys for the
3 use and benefit of the Kentucky Industries for the Blind and citizens who are blind
4 and visually impaired in the Commonwealth.

5 (4) The General Assembly finds that the continued employment of current employees
6 of the Division of the Kentucky Industries for the Blind is a necessary and important
7 outcome. The office~~[for the Blind]~~ shall ensure through contractual provisions that
8 the nonprofit corporation it contracts with pursuant to KRS 163.480(2) offers
9 employment to every employee of the Kentucky Industries for the Blind at the time
10 the nonprofit corporation assumes total responsibility for the operation of the
11 workshop. The office~~[for the Blind]~~ shall maximize the retirement benefits for each
12 current employee of the Division of Kentucky Industries for the Blind at the time
13 the office contracts for total operation by the nonprofit corporation through the
14 parted employer provisions of KRS 61.510 to 61.705.

15 (5) The General Assembly finds that at the time the Kentucky Industries for the Blind is
16 operated totally by the nonprofit corporation, the office~~[for the Blind]~~ shall have
17 the authority to convey ownership of the workshop to any nonprofit corporation
18 with which it contracts pursuant to KRS 163.480(2) without financial consideration,
19 including real and personal property, inventory of materials, and stores for resale.
20 The instrument of conveyance to such nonprofit corporation shall provide that the
21 real property and production equipment conveyed, or sufficient remuneration
22 therefor, shall revert to the state at any time the nonprofit corporation or its
23 successor shall cease operating the Kentucky Industries for the Blind for the benefit
24 of individuals who are blind or visually impaired.

25 ➔Section 35. KRS 163.480 is amended to read as follows:

26 (1) The office~~[for the Blind]~~ may contract, to the extent funds are available under this
27 chapter and under conditions and standards established by the office, with any

1 nonprofit corporation able to provide expertise in the operation of workshops for
2 and rehabilitation of individuals who are blind or visually impaired and whose
3 objectives are to carry out the purposes of KRS 163.470 ~~(10)~~~~(12)~~.

4 (2) The office ~~for the Blind~~ shall contract with a nonprofit corporation, effective July
5 1, 2000, to provide industrial evaluation, training, and employment opportunities for
6 individuals who are blind or visually impaired.

7 ➔Section 36. KRS 163.487 is amended to read as follows:

8 As used in KRS 163.485 to 163.489, unless the context requires otherwise:

9 (1) "Accessible electronic information service" means news and other timely
10 information, including but not limited to magazines, newsletters, schedules,
11 announcements, and newspapers, provided to eligible individuals using high-speed
12 computers, radios, and telecommunications technology for acquisition of content
13 and rapid distribution in a form appropriate for use by those individuals; and

14 (2) "Blind and disabled persons" means those individuals who are eligible for library
15 loan services through the Library of Congress and the office ~~for the Blind~~ pursuant
16 to 36 C.F.R. sec. 701.10(b).

17 ➔Section 37. KRS 163.489 is amended to read as follows:

18 (1) The Accessible Electronic Information Service Program is created and shall be
19 provided by the office ~~for the Blind~~. The program shall include:

20 (a) Intrastate access for eligible persons to read audio editions of newspapers,
21 magazines, newsletters, schedules, announcements, and other information
22 using a touch-tone telephone, radio, or other technologies that produce audio
23 editions by use of computer; and

24 (b) A means of program administration and reader registration on the Internet, or
25 by mail, telephone, or any other method providing consumer access.

26 (2) The program shall:

27 (a) Provide accessible electronic information services for all eligible blind and

1 disabled persons as defined by KRS 163.487(2); and

2 (b) Make maximum use of available state, federal, and other funds by obtaining
3 grants or in-kind support from appropriate programs and securing access to
4 low-cost interstate rates for telecommunications by reimbursement or
5 otherwise.

6 (3) The office~~[for the Blind]~~ shall review new technologies and current service
7 programs in Kentucky for the blind and visually impaired that are available to
8 expand audio communication if the office determines that these new technologies
9 will expand access to consumers in a cost-efficient manner. The office may
10 implement recommendations from the Statewide Council for Vocational
11 Rehabilitation~~[Office for the Blind State Rehabilitation Council]~~ for improving the
12 program.

13 ➔Section 38. KRS 164.006 is repealed and reenacted as a new section of KRS
14 Chapter 151B to read as follows:

15 The General Assembly of the Commonwealth of Kentucky finds and declares that:

16 (1) The economic future of the Commonwealth and the prosperity of its citizens depend
17 on the ability of Kentucky businesses to compete effectively in the world economy;

18 (2) A well-educated and highly trained workforce provides businesses in the
19 Commonwealth with the competitive edge critical for their success; and

20 (3) Too many adult Kentuckians are not full participants in the labor pool because they
21 lack a high school diploma, its equivalent, or the workplace knowledge necessary to
22 assure self-sufficiency for themselves and their families.

23 ➔Section 39. KRS 164.0062 is repealed, reenacted as a new section of KRS
24 Chapter 151B, and amended to read as follows:

25 (1) The General Assembly recognizes the critical condition of the educational level of
26 Kentucky's adult population and seeks to stimulate the attendance at, and successful
27 completion of, programs that provide a High School Equivalency Diploma.

1 Incentives shall be provided to full-time employees who complete a High School
2 Equivalency Diploma program within one (1) year and their employers.

3 ~~(2)~~~~(1)~~ The **Office of Adult Education**~~[Kentucky Adult Education Program]~~ within
4 the **Department of Workforce Investment in the Education and Workforce**
5 **Development Cabinet**~~[Council on Postsecondary Education]~~ shall promulgate
6 administrative regulations to establish the operational procedures for this section.

7 The administrative regulations shall include but not be limited to the criteria for:

- 8 (a) A learning contract that includes the process to develop a learning contract
9 between the student and the adult education instructor with the employer's
10 agreement to participate and support the student;
- 11 (b) Attendance reports that validate that the student is enrolled and studying for
12 the High School Equivalency Diploma during the release time from work; **and**
- 13 (c) Final reports that qualify the student for the tuition discounts under subsection
14 ~~(3)~~~~(2)~~(a) of this section and that qualify the employer for tax credits under
15 subsection ~~(4)~~~~(3)~~ of the section.

16 ~~(3)~~~~(2)~~ (a) An individual who has been out of secondary school for at least three (3)
17 years, develops and successfully completes a learning contract that requires a
18 minimum of five (5) hours per week to study for the High School Equivalency
19 Diploma program, and successfully earns a High School Equivalency Diploma
20 shall earn a tuition discount of two hundred fifty dollars (\$250) per semester
21 for a maximum of four (4) semesters at one (1) of Kentucky's public
22 postsecondary institutions.

23 (b) The program shall work with the postsecondary institutions to establish
24 notification procedures for students who qualify for the tuition discount.

25 ~~(4)~~~~(3)~~ An employer who assists an individual to complete his or her learning contract
26 under the provisions of this section shall receive a state tax credit against the
27 income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax

1 imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205 for a
2 portion of the released time given to the employee to study for the tests. The
3 application for the tax credit shall be supported with attendance documentation
4 provided by the **Office of Adult Education**~~[Kentucky Adult Education Program]~~
5 and calculated by multiplying fifty percent (50%) of the hours released for study by
6 the student's hourly salary, and not to exceed a credit of one thousand two hundred
7 fifty dollars (\$1250).

8 ➔Section 40. KRS 164.0064 is repealed, reenacted as a new section of KRS
9 Chapter 151B, and amended to read as follows:

10 (1) The **Office of Adult Education**~~[Kentucky Adult Education Program]~~ within the
11 **Department of Workforce Investment in the Education and Workforce**
12 **Development Cabinet**~~[Council on Postsecondary Education]~~ shall promulgate
13 administrative regulations to establish programs aligned with the College and
14 Career Readiness Standards for Adult Education, or any other similar standards
15 adopted by the federal Office of Career, Technical, and Adult Education, which
16 upon successful completion, shall result in the issuance of a High School
17 Equivalency Diploma.

18 (2) At least one (1) program authorized under subsection (1) of this section shall
19 include a test aligned with the College and Career Readiness Standards for Adult
20 Education, or any other standards adopted by the federal Office of Career,
21 Technical, and Adult Education, to serve as a qualifying test, which upon passing,
22 shall entitle students to receive a High School Equivalency Diploma.

23 (3) For purposes of any public employment, a High School Equivalency Diploma shall
24 be considered equal to a high school diploma issued under the provisions of KRS
25 158.140.

26 (4) A High School Equivalency Diploma shall be issued without charge upon
27 successfully completing a High School Equivalency Diploma program. A fee may

1 be assessed by the *Office of Adult Education*~~[Kentucky Adult Education Program]~~
 2 for the issuance of a duplicate High School Equivalency Diploma and for issuance
 3 of a duplicate score report. All fees collected for duplicate diplomas and score
 4 reports shall be used to support the adult education program.

5 (5) The *Office of Adult Education*~~[Kentucky Adult Education Program]~~ is authorized
 6 to contract annually with an institution of higher education or other appropriate
 7 agency or entity for scoring High School Equivalency Diploma program
 8 examinations.

9 (6) On June 29, 2017, any high school equivalency diploma or external diploma
 10 previously recognized or issued by the Commonwealth shall be considered
 11 retroactively as a High School Equivalency Diploma.

12 (7) Upon issuance, a High School Equivalency Diploma shall not be invalidated by any
 13 subsequent changes in test selection under this section.

14 ➔Section 41. KRS 164.007 is repealed, reenacted as a new section of KRS
 15 Chapter 151B, and amended to read as follows:

16 As used in *Sections 39, 40, 46, and 47 of this Act*~~[KRS 164.0062, 164.0064, 164.0232,~~
 17 ~~and 164.0234]~~, unless the context indicates otherwise:

18 (1) "Adult education" means, for programs funded under the federal Workforce
 19 *Innovation and Opportunity Act*~~[Investment Act of 1998]~~, services or instruction
 20 below the postsecondary level for individuals:

- 21 (a) Who have attained the age of sixteen (16) years of age;
- 22 (b) Who are not enrolled or required to be enrolled in secondary school under
 23 state law; and
- 24 (c) Who:
- 25 1. Lack sufficient mastery of basic educational skills to enable the
 26 individuals to function effectively in society;
- 27 2. Are unable to speak, read, or write the English language; or

- 1 3. Do not have a secondary school diploma or its recognized equivalent,
2 and have not achieved an equivalent level of education;
- 3 (2) "Family literacy services" means services that are of sufficient intensity in terms of
4 hours, and of sufficient duration, to assist a family to make sustainable increases in
5 its literacy level, and integrate the activities described in KRS 158.360; and
- 6 (3) "Literacy" means an individual's ability to read, write, and speak in English and
7 compute and solve problems at levels of proficiency necessary to function on the
8 job and in society to achieve one's goals and develop one's knowledge and potential.

9 ➔Section 42. KRS 164.020 is amended to read as follows:

10 The Council on Postsecondary Education in Kentucky shall:

- 11 (1) Develop and implement the strategic agenda with the advice and counsel of the
12 Strategic Committee on Postsecondary Education. The council shall provide for and
13 direct the planning process and subsequent strategic implementation plans based on
14 the strategic agenda as provided in KRS 164.0203;
- 15 (2) Revise the strategic agenda and strategic implementation plan with the advice and
16 counsel of the committee as set forth in KRS 164.004;
- 17 (3) Develop a system of public accountability related to the strategic agenda by
18 evaluating the performance and effectiveness of the state's postsecondary system.
19 The council shall prepare a report in conjunction with the accountability reporting
20 described in KRS 164.095, which shall be submitted to the committee, the
21 Governor, and the General Assembly by December 1 annually. This report shall
22 include a description of contributions by postsecondary institutions to the quality of
23 elementary and secondary education in the Commonwealth;
- 24 (4) Review, revise, and approve the missions of the state's universities and the
25 Kentucky Community and Technical College System. The Council on
26 Postsecondary Education shall have the final authority to determine the compliance
27 of postsecondary institutions with their academic, service, and research missions;

- 1 (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively
2 provide for an integrated system of postsecondary education. The council shall
3 guard against inappropriate and unnecessary conflict and duplication by promoting
4 transferability of credits and easy access of information among institutions;
- 5 (6) Engage in analyses and research to determine the overall needs of postsecondary
6 education and adult education in the Commonwealth;
- 7 (7) Develop plans that may be required by federal legislation. The council shall for all
8 purposes of federal legislation relating to planning be considered the "single state
9 agency" as that term may be used in federal legislation. When federal legislation
10 requires additional representation on any "single state agency," the Council on
11 Postsecondary Education shall establish advisory groups necessary to satisfy federal
12 legislative or regulatory guidelines;
- 13 (8) (a) Determine tuition and approve the minimum qualifications for admission to
14 the state postsecondary educational system. In defining residency, the council
15 shall classify a student as having Kentucky residency if the student met the
16 residency requirements at the beginning of his or her last year in high school
17 and enters a Kentucky postsecondary education institution within two (2)
18 years of high school graduation. In determining the tuition for non-Kentucky
19 residents, the council shall consider the fees required of Kentucky students by
20 institutions in adjoining states, the resident fees charged by other states, the
21 total actual per student cost of training in the institutions for which the fees
22 are being determined, and the ratios of Kentucky students to non-Kentucky
23 students comprising the enrollments of the respective institutions, and other
24 factors the council may in its sole discretion deem pertinent, except that the
25 Kentucky Community and Technical College System may assess a mandatory
26 student fee not to exceed eight dollars (\$8) per credit hour to be used
27 exclusively for debt service on amounts not to exceed seventy-five percent

- 1 (75%) of the total projects cost of the Kentucky Community and Technical
2 College System agency bond projects included in 2014 Ky. Acts ch. 117, Part
3 II, J., 11.
- 4 (b) The Kentucky Community and Technical College System mandatory fee
5 established in this subsection shall only be used for debt service on agency
6 bond projects.
- 7 (c) Any fee established as provided by this subsection shall cease to be assessed
8 upon the retirement of the project bonds for which it services debt.
- 9 (d) Prior to the issuance of any bonds, the Kentucky Community and Technical
10 College System shall certify in writing to the secretary of the Finance and
11 Administration Cabinet that sufficient funds have been raised to meet the local
12 match equivalent to twenty-five percent (25%) of the total project cost;
- 13 (9) Devise, establish, and periodically review and revise policies to be used in making
14 recommendations to the Governor for consideration in developing
15 recommendations to the General Assembly for appropriations to the universities,
16 the Kentucky Community and Technical College System, and to support strategies
17 for persons to maintain necessary levels of literacy throughout their lifetimes[
18 ~~including but not limited to appropriations to the Kentucky Adult Education~~
19 ~~Program~~]. The council has sole discretion, with advice of the Strategic Committee
20 on Postsecondary Education and the executive officers of the postsecondary
21 education system, to devise policies that provide for allocation of funds among the
22 universities and the Kentucky Community and Technical College System;
- 23 (10) Lead and provide staff support for the biennial budget process as provided under
24 KRS Chapter 48, in cooperation with the committee;
- 25 (11) (a) Except as provided in paragraph (b) of this subsection, review and approve all
26 capital construction projects covered by KRS 45.750(1)(f), including real
27 property acquisitions, and regardless of the source of funding for projects or

1 acquisitions. Approval of capital projects and real property acquisitions shall
2 be on a basis consistent with the strategic agenda and the mission of the
3 respective universities and the Kentucky Community and Technical College
4 System.

5 (b) The organized groups that are establishing community college satellites as
6 branches of existing community colleges in the counties of Laurel, Leslie, and
7 Muhlenberg, and that have substantially obtained cash, pledges, real property,
8 or other commitments to build the satellite at no cost to the Commonwealth,
9 other than operating costs that shall be paid as part of the operating budget of
10 the main community college of which the satellite is a branch, are authorized
11 to begin construction of the satellite on or after January 1, 1998;

12 (12) Require reports from the executive officer of each institution it deems necessary for
13 the effectual performance of its duties;

14 (13) Ensure that the state postsecondary system does not unnecessarily duplicate services
15 and programs provided by private postsecondary institutions and shall promote
16 maximum cooperation between the state postsecondary system and private
17 postsecondary institutions. Receive and consider an annual report prepared by the
18 Association of Independent Kentucky Colleges and Universities stating the
19 condition of independent institutions, listing opportunities for more collaboration
20 between the state and independent institutions and other information as appropriate;

21 (14) Establish course credit, transfer, and degree components as required in KRS
22 164.2951;

23 (15) Define and approve the offering of all postsecondary education technical, associate,
24 baccalaureate, graduate, and professional degree, certificate, or diploma programs in
25 the public postsecondary education institutions. The council shall expedite wherever
26 possible the approval of requests from the Kentucky Community and Technical
27 College System board of regents relating to new certificate, diploma, technical, or

- 1 associate degree programs of a vocational-technical and occupational nature.
2 Without the consent of the General Assembly, the council shall not abolish or limit
3 the total enrollment of the general program offered at any community college to
4 meet the goal of reasonable access throughout the Commonwealth to a two (2) year
5 course of general studies designed for transfer to a baccalaureate program. This
6 does not restrict or limit the authority of the council, as set forth in this section, to
7 eliminate or make changes in individual programs within that general program;
- 8 (16) Eliminate, in its discretion, existing programs or make any changes in existing
9 academic programs at the state's postsecondary educational institutions, taking into
10 consideration these criteria:
- 11 (a) Consistency with the institution's mission and the strategic agenda;
 - 12 (b) Alignment with the priorities in the strategic implementation plan for
13 achieving the strategic agenda;
 - 14 (c) Elimination of unnecessary duplication of programs within and among
15 institutions; and
 - 16 (d) Efforts to create cooperative programs with other institutions through
17 traditional means, or by use of distance learning technology and electronic
18 resources, to achieve effective and efficient program delivery;
- 19 (17) Ensure the governing board and faculty of all postsecondary education institutions
20 are committed to providing instruction free of discrimination against students who
21 hold political views and opinions contrary to those of the governing board and
22 faculty;
- 23 (18) Review proposals and make recommendations to the Governor regarding the
24 establishment of new public community colleges, technical institutions, and new
25 four (4) year colleges;
- 26 (19) Postpone the approval of any new program at a state postsecondary educational
27 institution, unless the institution has met its equal educational opportunity goals, as

- 1 established by the council. In accordance with administrative regulations
2 promulgated by the council, those institutions not meeting the goals shall be able to
3 obtain a temporary waiver, if the institution has made substantial progress toward
4 meeting its equal educational opportunity goals;
- 5 (20) Ensure the coordination, transferability, and connectivity of technology among
6 postsecondary institutions in the Commonwealth including the development and
7 implementation of a technology plan as a component of the strategic agenda;
- 8 (21) Approve the teacher education programs in the public institutions that comply with
9 standards established by the Education Professional Standards Board pursuant to
10 KRS 161.028;
- 11 (22) Constitute the representative agency of the Commonwealth in all matters of
12 postsecondary education of a general and statewide nature which are not otherwise
13 delegated to one (1) or more institutions of postsecondary learning. The
14 responsibility may be exercised through appropriate contractual relationships with
15 individuals or agencies located within or without the Commonwealth. The authority
16 includes but is not limited to contractual arrangements for programs of research,
17 specialized training, and cultural enrichment;
- 18 (23) Maintain procedures for the approval of a designated receiver to provide for the
19 maintenance of student records of the public institutions of higher education and the
20 colleges as defined in KRS 164.945, and institutions operating pursuant to KRS
21 165A.310 which offer collegiate level courses for academic credit, which cease to
22 operate. Procedures shall include assurances that, upon proper request, subject to
23 federal and state laws and regulations, copies of student records shall be made
24 available within a reasonable length of time for a minimum fee;
- 25 (24) Monitor and transmit a report on compliance with KRS 164.351 to the director of
26 the Legislative Research Commission for distribution to the Health and Welfare
27 Committee;

1 (25) (a) Develop in cooperation with each public university and the Kentucky
2 Community and Technical College System a comprehensive orientation and
3 education program for new members of the council and the governing boards
4 and continuing education opportunities for all council and board members.
5 For new members of the council and institutional governing boards, the
6 council shall:

7 1. Ensure that the orientation and education program comprises six (6)
8 hours of instruction time and includes but is not limited to information
9 concerning the roles of the council and governing board members, the
10 strategic agenda and the strategic implementation plan, and the
11 respective institution's mission, budget and finances, strategic plans and
12 priorities, institutional policies and procedures, board fiduciary
13 responsibilities, legal considerations including open records and open
14 meetings requirements, ethical considerations arising from board
15 membership, and the board member removal and replacement provisions
16 of KRS 63.080;

17 2. Establish delivery methods by which the orientation and education
18 program can be completed in person or electronically by new members
19 within one (1) year of their appointment or election;

20 3. Provide an annual report to the Governor and Legislative Research
21 Commission of those new board members who do not complete the
22 required orientation and education program; and

23 4. Invite governing board members of private colleges and universities
24 licensed by the Council on Postsecondary Education to participate in the
25 orientation and education program described in this subsection;

26 (b) Offer, in cooperation with the public universities and the Kentucky
27 Community and Technical College System, continuing education

- 1 opportunities for all council and governing board members; and
- 2 (c) Review and approve the orientation programs of each public university and
- 3 the Kentucky Community and Technical College System for their governing
- 4 board members to ensure that all programs and information adhere to this
- 5 subsection;
- 6 (26) Develop a financial reporting procedure to be used by all state postsecondary
- 7 education institutions to ensure uniformity of financial information available to state
- 8 agencies and the public;
- 9 (27) Select and appoint a president of the council under KRS 164.013;
- 10 (28) Employ consultants and other persons and employees as may be required for the
- 11 council's operations, functions, and responsibilities;
- 12 (29) Promulgate administrative regulations, in accordance with KRS Chapter 13A,
- 13 governing its powers, duties, and responsibilities as described in this section;
- 14 (30) Prepare and present by January 31 of each year an annual status report on
- 15 postsecondary education in the Commonwealth to the Governor, the Strategic
- 16 Committee on Postsecondary Education, and the Legislative Research Commission;
- 17 (31) Consider the role, function, and capacity of independent institutions of
- 18 postsecondary education in developing policies to meet the immediate and future
- 19 needs of the state. When it is found that independent institutions can meet state
- 20 needs effectively, state resources may be used to contract with or otherwise assist
- 21 independent institutions in meeting these needs;
- 22 (32) Create advisory groups representing the presidents, faculty, nonteaching staff, and
- 23 students of the public postsecondary education system and the independent colleges
- 24 and universities;
- 25 (33) Develop a statewide policy to promote employee and faculty development in state
- 26 and locally operated secondary area technology centers through the waiver of tuition
- 27 for college credit coursework in the public postsecondary education system. Any

1 regular full-time employee of a state or locally operated secondary area technology
2 center may, with prior administrative approval of the course offering institution,
3 take a maximum of six (6) credit hours per term at any public postsecondary
4 institution. The institution shall waive the tuition up to a maximum of six (6) credit
5 hours per term. The employee shall complete the Free Application for Federal
6 Student Aid to determine the level of need and eligibility for state and federal
7 financial aid programs. The amount of tuition waived shall not exceed the cost of
8 tuition at the institution less any state or federal grants received, which shall be
9 credited first to the student's tuition;

10 (34) ~~Establish a statewide mission for adult education and develop a twenty (20) year~~
11 ~~strategy, in partnership with the Kentucky Adult Education Program, under the~~
12 ~~provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult~~
13 ~~population. The council shall:~~

14 ~~(a) Promote coordination of programs and responsibilities linked to the issue of~~
15 ~~adult education with the Kentucky Adult Education Program and with other~~
16 ~~agencies and institutions;~~

17 ~~(b) Facilitate the development of strategies to increase the knowledge and skills~~
18 ~~of adults in all counties by promoting the efficient and effective coordination~~
19 ~~of all available education and training resources;~~

20 ~~(c) Lead a statewide public information and marketing campaign to convey the~~
21 ~~critical nature of Kentucky's adult literacy challenge and to reach adults and~~
22 ~~employers with practical information about available education and training~~
23 ~~opportunities;~~

24 ~~(d) Establish standards for adult literacy and monitor progress in achieving the~~
25 ~~state's adult literacy goals, including existing standards that may have been~~
26 ~~developed to meet requirements of federal law in conjunction with the~~
27 ~~Collaborative Center for Literacy Development: Early Childhood through~~

1 ~~Adulthood; and~~

2 ~~(e) Administer the adult education and literacy initiative fund created under KRS~~
3 ~~164.041;~~

4 ~~(35)~~ Participate with the Kentucky Department of Education, the Kentucky Board of
5 Education, and postsecondary education institutions to ensure that academic content
6 requirements for successful entry into postsecondary education programs are
7 aligned with high school content standards and that students who master the high
8 school academic content standards shall not need remedial courses. The council
9 shall monitor the results on an ongoing basis;

10 ~~(35)~~~~(36)~~ Cooperate with the Kentucky Department of Education and the Education
11 Professional Standards Board in providing information sessions to selected
12 postsecondary education content faculty and teacher educators of the high school
13 academic content standards as required under KRS 158.6453(2)(1);

14 ~~(36)~~~~(37)~~ Cooperate with the Office for Education and Workforce Statistics and ensure
15 the participation of the public institutions as required in KRS 151B.133;

16 ~~(37)~~~~(38)~~ Pursuant to KRS 63.080, review written notices from the Governor or from a
17 board of trustees or board of regents concerning removal of a board member or the
18 entire appointed membership of a board, investigate the member or board and the
19 conduct alleged to support removal, and make written recommendations to the
20 Governor and the Legislative Research Commission as to whether the member or
21 board should be removed; and

22 ~~(38)~~~~(39)~~ Exercise any other powers, duties, and responsibilities necessary to carry out
23 the purposes of this chapter. Nothing in this chapter shall be construed to grant the
24 Council on Postsecondary Education authority to disestablish or eliminate any
25 college of law which became a part of the state system of higher education through
26 merger with a state college.

27 ➔Section 43. KRS 164.0203 is amended to read as follows:

- 1 (1) The Council on Postsecondary Education shall adopt a strategic agenda that
2 identifies specific short-term objectives in furtherance of the long-term goals
3 established in KRS 164.003(2).
- 4 (2) (a) The purpose of the strategic agenda is to further the public purposes under
5 KRS 164.003 by creating high-quality, relevant, postsecondary education and
6 adult education opportunities in the Commonwealth. The strategic agenda
7 shall:
- 8 1. Serve as the public agenda for postsecondary education and adult
9 education for the citizens of the Commonwealth, providing statewide
10 priorities and a vision for long-term economic growth;
 - 11 2. State those important issues and aspirations of the Commonwealth's
12 students, employers, and workforce reflecting high expectations for their
13 performance and the performance of the educational institutions and
14 providers that serve them; and
 - 15 3. Sustain a long-term commitment for constant improvement, while
16 valuing market-driven responsiveness, accountability to the public,
17 technology-based strategies, and incentive-based motivation.
- 18 (b) The council shall develop a strategic implementation plan, which may be
19 periodically revised, to achieve the strategic agenda. The strategic agenda
20 shall serve as a guide for institutional plans and missions.
- 21 (3) The framework for the strategic implementation plan of the strategic agenda shall
22 include the following elements:
- 23 (a) A mission statement;
 - 24 (b) Goals;
 - 25 (c) Principles;
 - 26 (d) Strategies and objectives;
 - 27 (e) Benchmarks; and

- 1 (f) Incentives to achieve desired results.
- 2 (4) The implementation plan for the strategic agenda shall take into consideration the
3 value to society of a quality liberal arts education and the needs and concerns of
4 Kentucky's employers.
- 5 (5) The council shall develop benchmarks using criteria that shall include but not be
6 limited to:
- 7 (a) Use of the statistical information commonly provided by governmental and
8 regulatory agencies or specific data gathered by authorization of the council;
- 9 (b) Comparison of regions and areas within the Commonwealth and comparisons
10 of the Commonwealth to other states and the nation; and
- 11 (c) Measures of educational attainment, effectiveness, and efficiency, including
12 but not limited to those set forth in KRS 164.095.
- 13 (6) The council shall review the goals established by KRS 164.003(2) at least every
14 four (4) years and shall review its implementation plan at least every two (2) years.
- 15 (7) In developing the strategic agenda, the council shall actively seek input from the
16 Department of Education and local school districts to create necessary linkages to
17 assure a smooth and effective transition for students from the elementary and
18 secondary education system to the postsecondary education system. Upon
19 completion of the strategic agenda and strategic implementation plan, the council
20 shall distribute copies to each local school district.
- 21 (8) The strategic agenda shall include a long-term strategy, developed in partnership
22 with the Office of Adult Education~~[Kentucky Adult Education Program]~~, for
23 raising the knowledge and skills of Kentucky's adult population, and ensuring
24 lifelong learning opportunities for all Kentucky adults, drawing on the resources of
25 all state government cabinets and agencies, business and civic leadership, and
26 voluntary organizations.
- 27 ➔Section 44. KRS 164.0207 is amended to read as follows:

- 1 (1) The Collaborative Center for Literacy Development: Early Childhood through
2 Adulthood is created to make available professional development for educators in
3 reliable, replicable research-based reading programs, and to promote literacy
4 development, including cooperating with other entities that provide family literacy
5 services. The center shall be responsible for:
- 6 (a) Developing and implementing a clearinghouse for information about
7 programs addressing reading and literacy from early childhood and the
8 elementary grades (P-5) through adult education;
- 9 (b) Providing advice to the Kentucky Board of Education regarding the Reading
10 Diagnostic and Intervention Grant Program established in KRS 158.792 and
11 in other matters relating to reading;
- 12 (c) Collaborating with public and private institutions of postsecondary education
13 and adult education providers to provide for teachers and administrators
14 quality preservice and professional development relating to reading diagnostic
15 assessments and intervention and to the essential components of successful
16 reading: phonemic awareness, phonics, fluency, vocabulary, comprehension,
17 and the connections between writing and reading acquisition and motivation
18 to read;
- 19 (d) Collaborating with the Kentucky Department of Education to assist districts
20 with students functioning at low levels of reading skills to assess and address
21 identified literacy needs;
- 22 (e) Providing professional development and coaching for early childhood
23 educators and classroom teachers, including adult education teachers,
24 implementing selected reliable, replicable research-based reading programs.
25 The professional development shall utilize technology when appropriate;
- 26 (f) Developing and implementing a comprehensive research agenda evaluating
27 the early reading models implemented in Kentucky under KRS 158.792;

- 1 (g) Maintaining a demonstration and training site for early literacy located at each
2 of the public universities;
- 3 (h) Assisting middle and high schools in the development of comprehensive
4 adolescent reading plans and maintaining a repository of instructional
5 materials or summary materials that identify comprehension best practices in
6 the teaching of each subject area and a list of classroom-based diagnostic
7 reading comprehension assessments that measure student progress in
8 developing students' reading comprehension skills; and
- 9 (i) Evaluating the reading and literacy components of the model adult education
10 programs funded under the adult education and literacy initiative fund created
11 under Section 49 of this Act~~[KRS 164.041]~~.
- 12 (2) The center shall review national research and disseminate appropriate research
13 abstracts, when appropriate, as well as conduct ongoing research of reading
14 programs throughout the state. Research activities undertaken by the center shall
15 consist of descriptive as well as empirical studies.
- 16 (a) The center may contract for research studies to be conducted on its behalf.
- 17 (b) The research agenda should, at a minimum, consider the impact of various
18 reading and intervention programs:
- 19 1. In eliminating academic achievement gaps among students with
20 differing characteristics, including subpopulations of students with
21 disabilities, students with low socioeconomic status, students from racial
22 minority groups, students with limited English proficiency, and students
23 of different gender;
- 24 2. In schools with differing characteristics, such as urban versus rural
25 schools, poverty versus nonpoverty schools, schools with strong library
26 media center programs versus schools with weak library media center
27 programs, and schools in different geographic regions of the state;

1 3. In terms of their costs and effectiveness; and

2 4. In maintaining positive student progress over a sustained period of time.

3 (3) The center shall submit an annual report of its activities to the Kentucky
4 Department of Education, the Governor, and the Legislative Research Commission
5 no later than September 1 of each year.

6 (4) With advice from the Department of Education, the Council on Postsecondary
7 Education shall develop a process to solicit, review, and approve a proposal for
8 locating the Collaborative Center for Literacy Development at a public institution of
9 postsecondary education. The Council on Postsecondary Education shall approve
10 the location. The center, in conjunction with the council, shall establish goals and
11 performance objectives related to the functions described in this section.

12 ➔Section 45. KRS 164.023 is repealed, reenacted as a new section of KRS
13 Chapter 151B, and amended to read as follows:

14 (1) The **Office of Adult Education**~~[Kentucky Adult Education Program]~~ is created
15 **within the Department of Workforce Investment in the Education and Workforce**
16 **Development Cabinet** to carry out the statewide adult education mission. The
17 **office**~~[program]~~ shall implement a twenty (20) year state strategy to reduce the
18 number of adults who are at the lowest levels of literacy and most in need of adult
19 education and literacy services. The **office**~~[program]~~ shall have responsibility for all
20 functions related to adult education and literacy. **The office shall:**

21 **(a) Promote coordination of programs and responsibilities linked to the issue of**
22 **adult education with other agencies and institutions;**

23 **(b) Facilitate the development of strategies to increase the knowledge and skills**
24 **of adults in all counties by promoting the efficient and effective**
25 **coordination of all available education and training resources;**

26 **(c) Lead a statewide public information and marketing campaign to convey the**
27 **critical nature of Kentucky's adult literacy challenge and to reach adults**

1 and employers with practical information about available education and
 2 training opportunities;

3 (d) Establish standards for adult literacy and monitor progress in achieving the
 4 state's adult literacy goals, including existing standards that may have been
 5 developed to meet requirements of federal law in conjunction with the
 6 Collaborative Center for Literacy Development: Early Childhood through
 7 Adulthood; and

8 (e) Administer the adult education and literacy initiative fund created under
 9 Section 49 of this Act.

10 (2) The Office of Adult Education~~[Kentucky Adult Education Program is part of the~~
 11 ~~Council on Postsecondary Education and]~~ shall be organized in a manner as
 12 directed by the secretary of the Education and Workforce Development
 13 Cabinet~~[president of the Council on Postsecondary Education]~~. The
 14 office~~[program]~~ shall be headed by an executive director~~[a vice president]~~
 15 appointed by the secretary of the Education and Workforce Development
 16 Cabinet~~[president of the Council on Postsecondary Education]~~.

17 (3) The Office of Adult Education~~[Kentucky Adult Education Program, Council on~~
 18 ~~Postsecondary Education,]~~ shall be the agency solely designated for the purpose of
 19 developing and approving state plans required by state or federal laws or
 20 regulations.

21 ➔Section 46. KRS 164.0232 is repealed, reenacted as a new section of KRS
 22 Chapter 151B, and amended to read as follows:

23 (1) There is hereby established a nonprofit foundation to be known as the "Foundation
 24 for Adult Education." The purpose of the foundation shall be to supplement public
 25 funding for adult training in order to expand existing basic skills training programs.

26 (2) Funding for the foundation shall be obtained through contributions by the private
 27 sector. The foundation shall be empowered to solicit and accept funds from the

1 private sector to be used for grants to local education agencies to fund adult basic
 2 education programs especially designed for business and industry. Contributors may
 3 specify that contributed funds be used to improve the educational level of their
 4 employees as it relates to the High School Equivalency Diploma program.

5 (3) The foundation shall be governed by a board of trustees to be appointed by the
 6 secretary of the Education and Workforce Development Cabinet~~President of the~~
 7 ~~Council on Postsecondary Education~~ with responsibility for adult education
 8 programs based on recommendations from business, industry, labor, education, and
 9 interested citizens. Staff for the board of trustees shall be provided by the
 10 cabinet~~council~~.

11 (4) The foundation shall be attached to the office of the secretary of the Education and
 12 Workforce Development Cabinet~~president of the Council on Postsecondary~~
 13 ~~Education~~ for administrative purposes.

14 ➔Section 47. KRS 164.0234 is repealed, reenacted as a new section of KRS
 15 Chapter 151B, and amended to read as follows:

16 (1) (a) The Office of Adult Education~~Kentucky Adult Education Program~~ shall
 17 promulgate necessary administrative regulations and administer a statewide
 18 adult education and literacy system throughout the state. The adult education
 19 and literacy system shall include diverse educational services provided by
 20 credentialed professionals, based on the learners' current needs and a
 21 commitment to lifelong learning.

22 (b)~~(a)~~ Services shall be provided at multiple sites appropriate for adult
 23 learning, including vocational and technical colleges, community colleges,
 24 comprehensive universities, adult education centers, public schools, libraries,
 25 family resource centers, adult correctional facilities, other institutions, and
 26 through the Kentucky Commonwealth Virtual University. Services shall be
 27 targeted to communities with the greatest need based on the number of adults

1 at literacy levels I and II as defined by the 1997 Kentucky Adult Literacy
2 Survey and other indicators of need.

3 ~~(c)(b)~~ Access and referral services shall be initiated at multiple points
4 including businesses, educational institutions, labor organizations,
5 employment offices, and government offices.

6 ~~(d)(e)~~ Multiple funding sources, program support, and partnerships to
7 administer the adult education and literacy system may include student
8 scholarship and grants; fees for services rendered; and other general, agency,
9 local, state, federal, and private funds.

10 (2) Services included as part of the adult education and literacy system shall include but
11 not be limited to functionally-contexted workplace essential skills training based on
12 employers' needs, leading to a competency-based certificate indicating proficiency
13 in critical thinking, computating, reading, writing, communicating, problem-
14 solving, team-building, and use of technology at various worksites regarding basic
15 skills.

16 (3) In administering an adult education and literacy system, the Office of Adult
17 Education~~[Kentucky Adult Education Program]~~ shall:

18 (a) Assist providers with the development of quality job-specific and workplace
19 essential skills instruction for workers in business and industry, literacy and
20 adult basic education, adult secondary education, including High School
21 Equivalency Diploma program preparation, English as a second language, and
22 family literacy programs, in cooperation with local business, labor, economic
23 development, educational, employment, and service support entities;

24 (b) Provide assessments of each student's skill and competency level allowing
25 assessments to be shared with other educational and employment entities
26 when necessary for providing additional educational programs, taking into
27 consideration student confidentiality;

- 1 (c) Assist adult educators to meet professional standards;
- 2 (d) Create an awareness program in cooperation with the Administrative Office of
3 the Courts to ensure that District and Circuit Court Judges are aware of the
4 provisions of KRS 533.200 and the methods to access adult education and
5 literacy programs for persons sentenced under the statute;
- 6 (e) Develop administrative regulations including those for business and industry
7 service participation and mechanisms for service funding through all
8 appropriate federal, state, local, and private resources;
- 9 (f) Require and monitor compliance with the program's administrative
10 regulations and policies; and
- 11 (g) Develop and implement performance measures and benchmarks.

12 ➔Section 48. KRS 164.035 is amended to read as follows:

13 The Council on Postsecondary Education, in consultation with the *Office of Adult*
14 *Education*~~[Kentucky Adult Education Program]~~ and the Collaborative Center for
15 Literacy Development: Early Childhood through Adulthood, shall assess the need for
16 technical assistance, training, and other support to assist in the development of adult
17 education and workforce development that support the state strategic agenda and that
18 include a comprehensive coordinated approach to education and training services. The
19 council shall promote the involvement of universities; colleges; technical institutions;
20 elementary and secondary educational agencies; labor, business, and industry
21 representatives; community-based organizations; citizens' groups; and other policymakers
22 in the development of the regional strategies.

23 ➔Section 49. KRS 164.041 is repealed, reenacted as a new section of KRS
24 Chapter 151B, and amended to read as follows:

- 25 (1) There is created in the *Education and Workforce Development Cabinet*~~[Council on~~
26 ~~Postsecondary Education,]~~ a special fund to be known as the adult education and
27 literacy initiative fund, which shall consist of moneys appropriated by the General

1 Assembly, gifts, grants, other sources of funding, public and private, and interest
2 accrued by the fund. This fund shall not lapse at the end of a fiscal year but shall be
3 carried forward to be used only for the purposes specified in this section. Moneys
4 accumulated in this fund on the effective date of this Act~~[July 14, 2000,]~~ shall
5 remain in the fund and be transferred to the Education and Workforce
6 Development Cabinet~~[Council on Postsecondary Education]~~ to be used for
7 purposes stated in this section.

8 (2) The purpose of the adult education and literacy initiative fund shall be to support
9 strategies for adult education, to provide statewide initiatives for excellence, and to
10 provide funds for research and development activities.

11 (3) The cabinet~~[council, in collaboration with the Kentucky Adult Education Program,]~~
12 shall establish the guidelines for the use, distribution, and administration of the
13 fund, financial incentives, technical assistance, and other support for strategic
14 planning; and guidelines for fiscal agents to assess county and area needs and to
15 develop strategies to meet those needs.

16 (4) The fund shall include the following strategies:

17 (a) Statewide initiatives. Funds shall be used to encourage collaboration with
18 other organizations, stimulate development of models of adult education
19 programs that may be replicated elsewhere in the state, provide incentives for
20 adults, employers, and providers to encourage adults to establish and
21 accomplish learning contracts, provide incentives to encourage participation
22 in adult education, assist providers of county and area programs in areas of
23 highest need, and for other initiatives of regional or statewide significance as
24 determined by the cabinet~~[council]~~. The Collaborative Center for Literacy
25 Development: Early Childhood through Adulthood created under KRS
26 164.0207 shall evaluate the reading and literacy components of model
27 programs funded under this paragraph.

- 1 (b) Research and demonstration. The funds shall be used to develop:
- 2 1. Standards for the preparation, professional development, and support for
- 3 adult educators with the advice of the Office of Adult
- 4 Education~~[Kentucky Adult Education Program]~~ and as compatible with
- 5 funds provided under Title II of the Federal Workforce Investment Act;
- 6 2. A statewide competency-based certification for transferable skills in the
- 7 workplace; and
- 8 3. A statewide public information and marketing campaign.

9 ➔Section 50. KRS 164.092 is amended to read as follows:

10 (1) For purposes of this section:

- 11 (a) "Category I and Category II square feet" means square footage that falls under
- 12 space categories as defined by the Postsecondary Education Facilities
- 13 Inventory and Classification Manual published by the United States
- 14 Department of Education;
- 15 (b) "Comprehensive university" has the same meaning as in KRS 164.001;
- 16 (c) "Council" means the Council on Postsecondary Education;
- 17 (d) "Equilibrium" means a condition in which every institution has an
- 18 appropriately proportionate level of resources as determined by the
- 19 performance funding model established in this section given each institution's
- 20 level of productivity in achieving student success outcomes, course
- 21 completion outcomes, and other components included in the model;
- 22 (e) "Formula base amount" means an institution's general fund appropriation
- 23 amount from the previous fiscal year net of debt service on bonds,
- 24 appropriations for mandated programs as determined by the council, and any
- 25 adjustments reflecting the previous fiscal year's performance distribution;
- 26 (f) "Hold-harmless provision" means a provision included in the funding
- 27 formulas as described in subsection (9) of this section that prevents a

1 reduction of a designated portion of funding for an institution through
2 operation of the funding formula;

3 (g) "Institution" means a college in the Kentucky Community and Technical
4 College System or a public university;

5 (h) "KCTCS" means the Kentucky Community and Technical College System;

6 (i) "KCTCS institution allocable resources" means the formula base amount net
7 of any equity adjustment as described in subsection (7)(b) of this section, any
8 amount protected by a hold-harmless provision, and any applicable increase or
9 decrease in general fund appropriations;

10 (j) "Research universities" means the University of Kentucky and the University
11 of Louisville;

12 (k) "Stop-loss provision" means a provision included in the funding formulas as
13 described in subsection (9) of this section to limit reduction of an institution's
14 funding amount to a predetermined percentage, notwithstanding the amounts
15 calculated by operation of the formula; and

16 (l) "University allocable resources" means the formula base amount net of any
17 small school adjustment as described in subsection (5)(c) of this section, any
18 amount protected by a hold-harmless provision, and any applicable increase or
19 decrease in general fund appropriations.

20 (2) The General Assembly hereby finds that improving opportunity for the
21 Commonwealth's citizens and building a stronger economy can be achieved by its
22 public college and university system focusing its efforts and resources on the goals
23 of:

24 (a) Increasing the retention and progression of students toward timely credential
25 or degree completion;

26 (b) Increasing the number and types of credentials and degrees earned by all types
27 of students;

- 1 (c) Increasing the number of credentials and degrees that garner higher salaries
2 upon graduation, such as science, technology, engineering, math, and health,
3 and in areas of industry demand;
- 4 (d) Closing achievement gaps by increasing the number of credentials and degrees
5 earned by low-income students, underprepared students, and underrepresented
6 minority students; and
- 7 (e) Facilitating credit hour accumulation and transfer of students from KCTCS to
8 four (4) year postsecondary institutions.
- 9 (3) The General Assembly hereby declares these goals can best be accomplished by
10 implementing a comprehensive funding model for the allocation of state general
11 fund appropriations for postsecondary institution operations that aligns the
12 Commonwealth's investments in postsecondary education with the
13 Commonwealth's postsecondary education policy goals and objectives.
- 14 (4) This section establishes a comprehensive funding model for the public
15 postsecondary education system to be implemented by the Council on
16 Postsecondary Education. The funding model shall include a public university
17 sector formula and a KCTCS sector formula.
- 18 (5) The funding formula for the public university sector shall:
- 19 (a) Recognize differences in missions and cost structures between research
20 universities and comprehensive universities to ensure that neither are
21 advantaged or disadvantaged during the first full year of implementation;
- 22 (b) Distribute one hundred percent (100%) of the university allocable resources
23 for all universities in the sector, based on rational criteria, including student
24 success, course completion, and operational support components, regardless
25 of whether state funding for postsecondary institution operations increases,
26 decreases, or remains stable;
- 27 (c) Include an adjustment to minimize impact on smaller campuses as determined

1 by the council; and

2 (d) Be constructed to achieve equilibrium, at which point the funding formula
3 rewards rates of improvement above the sector average rate.

4 (6) Funding for the public university sector shall be distributed as follows:

5 (a) Thirty-five percent (35%) of total university allocable resources shall be
6 distributed based on each university's share of total student success outcomes
7 produced, including but not limited to:

- 8 1. Bachelor's degree production;
- 9 2. Bachelor's degrees awarded per one hundred (100) undergraduate full-
10 time equivalent students;
- 11 3. Numbers of students progressing beyond thirty (30), sixty (60), and
12 ninety (90) credit hour thresholds;
- 13 4. Science, technology, engineering, math, and health bachelor's degree
14 production; and
- 15 5. Bachelor's degrees earned by low-income students and underrepresented
16 minority students;

17 (b) Thirty-five percent (35%) of total university allocable resources shall be
18 distributed based on each university's share of sector total student credit hours
19 earned, excluding dual credit enrollment, weighted to account for cost
20 differences by academic discipline and course level, such as lower and upper
21 division baccalaureate, master's, doctoral research, and doctoral professional;
22 and

23 (c) Thirty percent (30%) of total university allocable resources shall be distributed
24 in support of vital campus operations as follows:

- 25 1. Ten percent (10%) shall be distributed based on each university's share
26 of Category I and Category II square feet, net of research, nonclass
27 laboratory, and open laboratory space, to support maintenance and

1 operation of campus facilities and may include a space utilization factor
2 as determined by the council in collaboration with the working group
3 established in subsection (11) of this section;

4 2. Ten percent (10%) shall be distributed based on each university's share
5 of total instruction and student services spending, net of maintenance
6 and operation, to support campus administrative functions; and

7 3. Ten percent (10%) shall be distributed based on each university's share
8 of total full-time equivalent student enrollment to support academic
9 support services such as libraries and academic computing.

10 (7) The funding formula for the KCTCS sector:

11 (a) Shall distribute one hundred percent (100%) of KCTCS institution allocable
12 resources for all KCTCS colleges based on rational criteria, including student
13 success, course completion, and operational support components, regardless
14 of whether state funding for postsecondary institution operations increases,
15 decreases, or remains stable;

16 (b) May include an adjustment to account for declining enrollment in some
17 regions of the Commonwealth as determined by the council; and

18 (c) Shall be constructed to achieve equilibrium, at which point the funding
19 formula rewards rates of improvement above the sector average rate.

20 (8) Funding for the KCTCS sector shall be distributed as follows:

21 (a) Thirty-five percent (35%) of total KCTCS institution allocable resources shall
22 be distributed based on each college's share of total student success outcomes
23 produced, including but not limited to:

24 1. Certificate, diploma, and associate degree production;

25 2. Numbers of students progressing beyond fifteen (15), thirty (30), and
26 forty-five (45) credit hour thresholds;

27 3. Science, technology, engineering, math, and health credentials

- 1 production;
- 2 4. Production of high-wage, high-demand, industry credentials as
- 3 determined using occupational outlook data and employment statistics
- 4 wage data provided by the Department of Workforce Investment in the
- 5 Education and Workforce Development Cabinet~~[Kentucky Office of~~
- 6 ~~Employment and Training]~~;
- 7 5. Production of industry credentials designated as targeted industries by
- 8 the Education and Workforce Development Cabinet;
- 9 6. Credentials earned by low-income students, underprepared students, and
- 10 underrepresented minority students; and
- 11 7. Transfers to four (4) year institutions;
- 12 (b) Thirty-five percent (35%) of total KCTCS institution allocable resources shall
- 13 be distributed based on each college's share of total student credit hours
- 14 earned, weighted to account for cost differences by academic discipline; and
- 15 (c) Thirty percent (30%) of total KCTCS institution allocable resources shall be
- 16 distributed in support of vital campus operations as follows:
- 17 1. Ten percent (10%) shall be distributed based on each college's share of
- 18 Category I and Category II square feet, net of research, nonclass
- 19 laboratory, and open laboratory space, to support maintenance and
- 20 operation of campus facilities and may include a space utilization factor
- 21 as determined by the council in collaboration with the postsecondary
- 22 education working group established in subsection (11) of this section;
- 23 2. Ten percent (10%) shall be distributed based on each college's share of
- 24 total instruction and student services spending, net of maintenance and
- 25 operation, to support campus administrative functions; and
- 26 3. Ten percent (10%) shall be distributed based on each college's share of
- 27 total full-time equivalent student enrollment to support academic

1 support services such as libraries and academic computing.

2 (9) (a) The funding formula for both sectors shall include:

- 3 1. A hold-harmless provision for fiscal year 2018-2019 preventing a
4 reduction in an institution's funding amount based solely on the formula
5 calculation, and allowing a hold-harmless amount determined by the
6 formula in fiscal year 2018-2019 to be deducted from an institution's
7 formula base amount in whole or in part in fiscal years 2019-2020 and
8 2020-2021, as determined by the council;
- 9 2. A stop-loss provision for fiscal year 2019-2020 limiting the reduction in
10 funding to any institution to one percent (1%) of that institution's
11 formula base amount; and
- 12 3. A stop-loss provision for fiscal year 2020-2021 limiting the reduction in
13 funding to any institution to two percent (2%) of that institution's
14 formula base amount.

15 (b) For fiscal year 2021-2022 and thereafter, hold-harmless and stop-loss
16 provisions shall not be included in the funding formulas except by enactment
17 of the General Assembly.

18 (c) Paragraph (a) of this subsection shall not be construed to limit the level of a
19 budget reduction that may be enacted by the General Assembly or
20 implemented by the Governor.

21 (10) (a) By April 1, 2017, and each April 1 thereafter, the council shall certify to the
22 Office of the State Budget Director the amount to be distributed to each of the
23 public universities and KCTCS as determined by the comprehensive funding
24 model created in this section, not to exceed the available balance in the
25 postsecondary education performance fund created in subsection (13) of this
26 section.

27 (b) The Office of the State Budget Director shall distribute the appropriations in

1 the postsecondary education performance fund for that fiscal year to the
2 institutions in the amounts the council has certified. The adjusted
3 appropriations to each institution shall be allotted as provided in KRS 48.600,
4 48.605, 48.610, 48.620, and 48.630.

5 (c) For fiscal year 2017-2018, the Office of the State Budget Director shall
6 distribute to the public postsecondary education institutions, except for
7 Kentucky State University, those funds appropriated to the postsecondary
8 education performance fund by the General Assembly in 2016 Ky. Acts ch.
9 149, Part I, K., 12., in accordance with the comprehensive funding model
10 created in this section.

11 (11) (a) The Council on Postsecondary Education is hereby directed to establish a
12 postsecondary education working group composed of the following:

- 13 1. The president of the council;
- 14 2. The president or designee of each public postsecondary institution,
15 including the president of KCTCS;
- 16 3. The Governor or designee;
- 17 4. The Speaker of the House or designee; and
- 18 5. The President of the Senate or designee.

19 (b) Beginning in fiscal year 2020-2021 and every three (3) fiscal years thereafter,
20 the postsecondary education working group shall convene to determine if the
21 comprehensive funding model is functioning as expected, identify any
22 unintended consequences of the model, and recommend any adjustments to
23 the model.

24 (c) The results of the review and recommendations of the working group shall be
25 reported by the council to the Governor, the Interim Joint Committee on
26 Appropriations and Revenue, and the Interim Joint Committee on Education.

27 (12) The council shall promulgate administrative regulations under KRS Chapter 13A to

1 implement the provisions of this section.

2 (13) (a) The postsecondary education performance fund is hereby established as an
3 appropriation unit to support improvement in the operations of the public
4 postsecondary institutions and achievement of the Commonwealth's education
5 policy goals and workforce development priorities. General fund moneys may
6 be appropriated by the General Assembly to this fund for distribution to the
7 public postsecondary institutions in amounts determined through the
8 comprehensive funding model created in this section.

9 (b) Any balance in the postsecondary education performance fund at the close of
10 any fiscal year shall not lapse but shall be carried forward to the next fiscal
11 year and be continuously appropriated for the purposes specified in this
12 section. A general statement that all continuing appropriations are repealed,
13 discontinued, or suspended shall not operate to repeal, discontinue, or suspend
14 this fund or to repeal this action.

15 ➔Section 51. KRS 164.477 is amended to read as follows:

16 (1) As used in this section, unless the context requires otherwise:

17 (a) "Alternative format" means any medium or format for the presentation of
18 instructional materials other than standard print needed by a student with a
19 disability for a reading accommodation, including but not limited to braille,
20 large print texts, audio recordings, digital texts, and digital talking books;

21 (b) "Instructional material" means a textbook or other material published
22 primarily for use by students in a course of study in which a student with a
23 disability is enrolled that is required or essential to a student's success, as
24 determined by the course instructor. "Instructional material" includes
25 nontextual mathematics and science material to the extent that software is
26 commercially available to permit the conversion of the electronic file of the
27 material into a format that is compatible with assistive technologies such as

1 speech synthesis software or braille translation software commonly used by
2 students with disabilities;

3 (c) "Nonprinted instructional material" means instructional material in a format
4 other than print, including instructional material that requires the availability
5 of electronic equipment in order to be used as a learning resource, including
6 but not limited to software programs, videodiscs, videotapes, and audio tapes;

7 (d) "Printed instructional material" means instructional material in book or other
8 printed form;

9 (e) "Publisher" means an individual, firm, partnership, corporation, or other entity
10 that publishes or manufactures instructional material used by students
11 attending a public or independent postsecondary education institution in
12 Kentucky;

13 (f) "State Repository for Alternative Format Instructional Materials" or
14 "repository" means a consortium established or otherwise designated by the
15 Council on Postsecondary Education under subsection (8) of this section to
16 serve as a state repository for electronic files or alternative format
17 instructional materials obtained from publishers, created by institutions, or
18 received through other means;

19 (g) "Structural integrity" means the inclusion of all of the information provided in
20 printed instructional material, including but not limited to the text of the
21 material sidebars, the table of contents, chapter headings and subheadings,
22 footnotes, indexes, and glossaries, but need not include nontextual elements
23 such as pictures, illustrations, graphs, or charts; and

24 (h) "Working day" means a day that is not Saturday, Sunday, or a national
25 holiday.

26 (2) The purpose of this section is to ensure, to the maximum extent possible, that all
27 postsecondary students with a disability in Kentucky requiring reading

1 accommodations, in accordance with Section 504 of the Rehabilitation Act, 29
2 U.S.C. sec. 794, or the Americans with Disabilities Act, 42 U.S.C. secs. 12101 et
3 seq., including but not limited to students who are blind, are visually impaired, or
4 have a specific learning disability or other disability affecting reading, shall have
5 access to instructional materials in alternative formats that are appropriate to their
6 disability and educational needs.

7 (3) A publisher shall, upon fulfillment of the requirements of subsections (6) and (7) of
8 this section, provide to a postsecondary education institution or to the State
9 Repository for Alternative Format Instructional Materials, at no cost:

10 (a) Printed instructional material in an electronic format; and

11 (b) Nonprinted instructional material in an electronic format, when the technology
12 is available to maintain the material's structural integrity.

13 (4) Instructional material provided by a publisher in electronic format shall:

14 (a) Maintain the structural integrity of the original instructional material, except
15 as provided for in paragraph (b) subsection (3) of this section;

16 (b) Be compatible with commonly used braille translation and speech synthesis
17 software;

18 (c) Include corrections and revisions as may be necessary; and

19 (d) Be in a format that is mutually agreed upon by the publisher and the
20 requesting institution or the State Repository for Alternative Format
21 Instructional Materials. If good-faith efforts fail to produce an agreement as to
22 an electronic format that will preserve the structural integrity of the
23 instructional material, the publisher shall provide the instructional material in
24 XML (Extensible Markup Language), utilizing an appropriate document-type
25 definition suitable for the creation of alternative format materials, and shall
26 preserve as much of the structural integrity of the original instructional
27 material as possible.

- 1 (5) The publisher shall transmit or otherwise send an electronic format version of
2 requested instructional material within fifteen (15) working days of receipt of an
3 appropriately completed request. Should this timetable present an undue burden for
4 a publisher, the publisher shall submit within the fifteen (15) working day period a
5 statement to the requesting entity certifying the expected date for transmission or
6 delivery of the file.
- 7 (6) (a) To receive an electronic format version of instructional material, a written
8 request shall be submitted to the publisher that certifies:
- 9 1. The instructional material has been purchased for use by a student with a
10 disability by the student or the institution the student attends or is
11 registered to attend;
 - 12 2. The student has a disability that prevents the student from using the
13 standard instructional material; and
 - 14 3. The instructional material is for use by the student in connection with a
15 course in which he or she is registered or enrolled.
- 16 (b) A publisher may also require a statement signed by the student or, if the
17 student is a minor, the student's parent or legal guardian, agreeing that the
18 student will:
- 19 1. Use the electronic copy of the instructional material solely for his or her
20 own educational purposes; and
 - 21 2. Not copy or distribute the instructional material for use by others.
- 22 (7) The request for an electronic format version of instructional material shall be
23 prepared and signed by:
- 24 (a) The coordinator of services for students with a disability at the institution;
 - 25 (b) A representative of the Division of~~Office for the~~ Blind Services within the
26 Office of Vocational Rehabilitation in the Education and Workforce
27 Investment Cabinet;

- 1 (c) A representative of the Office of Vocational Rehabilitation; or
- 2 (d) A representative of the State Repository for Alternative Format Instructional
- 3 Materials.
- 4 (8) The Council on Postsecondary Education may, to the extent funds are available,
- 5 establish or otherwise designate a consortium to be called the State Repository for
- 6 Alternative Format Instructional Materials to serve as a state repository for
- 7 electronic files and alternative format materials for the purpose of facilitating the
- 8 timely access of appropriate alternative instructional materials by postsecondary
- 9 students with a disability.
- 10 (9) The Council on Postsecondary Education may promulgate administrative
- 11 regulations governing the implementation and administration of this section.
- 12 (10) The council shall work with representatives of each postsecondary institution to
- 13 develop policies and procedures designed to ensure to the maximum extent possible
- 14 that students with disabilities have access to instructional materials in appropriate
- 15 alternative formats within the first week of class.
- 16 (11) The council, in consultation with appropriate entities, including but not limited to
- 17 the Office of Vocational Rehabilitation~~[for the Blind]~~, the Kentucky Assistive
- 18 Technology Service Network, Recording for the Blind and Dyslexic, and the
- 19 Kentucky Association on Higher Education and Disability, shall include within its
- 20 annual status report on postsecondary education in Kentucky a continuing
- 21 assessment of the need for statewide technical assistance, training, and other
- 22 supports designed to increase the availability and effective use of alternative format
- 23 instructional materials.
- 24 (12) The State Repository for Alternative Format Instructional Materials or the council
- 25 may receive electronic files and alternative format materials from:
- 26 (a) Publishers;
- 27 (b) Postsecondary education institutions that have created alternative materials for

1 use by a student with a disability;

2 (c) The Kentucky Department of Education, receiving electronic files from
3 publishers under the requirements of KRS 156.027; or

4 (d) Other sources.

5 (13) The repository or the council shall, upon receipt of documents as set forth in
6 subsection (6) of this section, provide at no cost copies of electronic files and
7 alternative format materials to:

8 (a) Postsecondary education institutions in Kentucky; and

9 (b) The Kentucky Department of Education, to assist in the implementation of the
10 requirements of KRS 156.027.

11 (14) The repository shall provide to a publisher, upon request:

12 (a) A summary of all electronic or alternative format versions of instructional
13 material from that publisher provided to students, postsecondary education
14 institutions, and the Kentucky Department of Education from its holdings; and

15 (b) Copies of requests and related certification documents received for
16 instructional materials from that publisher.

17 (15) The repository or the council may submit requests for electronic files to publishers
18 on behalf of institutions.

19 (16) (a) A postsecondary education institution or an educational instructor, assistant,
20 or tutor may assist a student with a disability by using the electronic format
21 version of instructional material as provided by this section solely to
22 transcribe or arrange for the conversion of the instructional material into an
23 alternative format, or to otherwise assist the student.

24 (b) If an alternative format version of instructional material is created, an
25 institution may, for the purpose of providing the version to other students with
26 disabilities, share that version with:

27 1. The repository;

- 1 2. A Kentucky postsecondary education institution serving a student with a
- 2 disability; and
- 3 3. An authorized entity as defined under 17 U.S.C. sec. 121 that commonly
- 4 provides alternative format materials for use by students in Kentucky
- 5 institutions.

6 (17) The disk or file of an electronic format version of instructional material used
7 directly by a student shall be copy-protected, or reasonable precautions shall be
8 taken by the institution to ensure that the student does not copy or distribute the
9 electronic format version in violation of the Copyright Revisions Act of 1976, as
10 amended, 17 U.S.C. secs. 101 et seq.

11 (18) Nothing in this section shall be deemed to authorize any use of instructional
12 materials that would constitute an infringement of copyright under the Copyright
13 Revision Act of 1976, as amended, 17 U.S.C. secs. 101 et seq.

14 (19) Nothing in this section shall absolve covered entities from the obligation to provide
15 equivalent access to information technology and software as set forth in KRS
16 61.982.

17 (20) A publisher shall be considered a place of public accommodation for the purposes
18 of KRS 344.130. Failure to comply with the requirements of this section shall be an
19 unlawful practice of discrimination on the basis of disability for the purposes of
20 KRS 344.120.

21 ➔Section 52. KRS 186.576 is amended to read as follows:

22 As used in KRS 186.576 to 186.579:

- 23 (1) "Applicant" means any person applying for an instruction permit or an operator's
- 24 license who must use a bioptic telescopic device in order to operate a motor vehicle;
- 25 (2) "Binocular vision" means visual acuity that is 20/200 or better in both eyes, with or
- 26 without corrective lenses;
- 27 (3) "Bioptic telescopic device" means a two (2) focus optical system used to magnify

- 1 distant objects by including a small telescope that is mounted in a spectacle lens in a
2 manner to allow an unobstructed view of the horizontal visual field through a
3 person's normal distance corrective lens;
- 4 (4) "Certified driver training program" means a program that provides and coordinates
5 comprehensive assessment and training of driving skills and responses that
6 emphasizes the vision, hearing, psychological, perceptual, orientation, and mobility
7 skills of an applicant and that is certified by the department;
- 8 (5) "Combined visual acuity" means visual acuity attained by using both eyes together
9 where a person has binocular vision;
- 10 (6) "Corrective lenses" means eyeglasses, contact lenses, and intraocular lenses, but
11 does not mean a bioptic telescopic device;
- 12 (7) "Daytime driving restriction" means operation of a motor vehicle is restricted to the
13 period of time from between thirty (30) minutes after sunrise and thirty (30) minutes
14 before sunset. Under this restriction, driving during adverse weather conditions that
15 significantly reduce the visibility of the roadway, other traffic, and traffic control
16 devices shall be prohibited;
- 17 (8) "Office" means the Office ~~for the Blind~~ **of Vocational Rehabilitation**;
- 18 (9) "Monocular vision" means visual acuity that is 20/200 or better in only one (1) eye,
19 with or without corrective lenses;
- 20 (10) "Restricted out-of-state driver" means a person who has been issued, by another
21 state, a valid operator's license with a restriction requiring the use of a bioptic
22 telescopic device;
- 23 (11) "Vision specialist" means a licensed ophthalmologist or optometrist;
- 24 (12) "Visual acuity" means the measure of a person's visual acuity based on the Snellen
25 visual acuity scale; and
- 26 (13) "Visual field" means the area of physical space visible to the eye in a given fixed
27 position.

1 ➔Section 53. KRS 186.578 is amended to read as follows:

- 2 (1) Applicants accepted to participate in a certified driver training program shall meet
3 the following minimum vision requirements:
- 4 (a) A distance visual acuity of 20/200 or better, with corrective lenses, in the
5 applicant's better eye;
 - 6 (b) A visual field of at least one hundred twenty (120) degrees horizontally and
7 eighty (80) degrees vertically in the same eye as used in paragraph (a) of this
8 subsection;
 - 9 (c) A distance visual acuity of 20/60 or better using a bioptic telescopic device;
10 and
 - 11 (d) No ocular diagnosis or prognosis that indicates a likelihood that significant
12 deterioration of visual acuity or visual field to levels below the minimum
13 standards outlined in this subsection will occur.
- 14 (2) Upon acceptance into a certified driver training program, an applicant shall be given
15 an examination to test his or her knowledge of the motor vehicle laws of the
16 Commonwealth. This examination may be taken orally. Upon successful
17 completion of this examination, the applicant shall be issued a temporary
18 instruction permit, that shall be valid only when the applicant is accompanied by an
19 employee of a certified driver training program. Temporary instruction permits
20 issued under this section shall be valid for one (1) year from the date of issue.
- 21 (3) An applicant who successfully completes a certified driver training program shall be
22 reexamined by a vision specialist upon completion of the program. The examination
23 shall certify that the applicant continues to meet the visual acuity and visual field
24 standards set forth in subsection (1) of this section.
- 25 (4) An applicant who successfully completes a certified driving training program and
26 passes the visual reexamination required by subsection (3) of this section shall be
27 eligible to take a comprehensive operator's license examination administered by the

1 Department of Kentucky State Police. The operator's license examination shall
2 include testing of the applicant's driving skills over a route specifically designed to
3 test the applicant's competency using a bioptic telescopic device.

4 (5) An applicant who is a restricted out-of-state driver establishing residence in
5 Kentucky shall be required to take and pass a temporary instruction permit
6 examination before being eligible to take the operator's license examination. An
7 applicant who is a restricted out-of-state driver establishing residence in Kentucky
8 shall not be required to complete a certified driver training program but shall be
9 required to take and pass the visual examination outlined in subsection (3) of this
10 section before taking the operator's license examination.

11 (6) If an applicant or restricted out-of-state driver fails the operator's license
12 examination three (3) times, he or she shall not be eligible to retake the examination
13 until successfully completing additional training from a certified driver training
14 program and obtaining an affidavit from the program director or bioptic driving
15 instructor recommending that the applicant or restricted out-of-state driver be
16 allowed to retake the examination.

17 (7) The Office~~[for the Blind]~~ **of Vocational Rehabilitation in the Education and**
18 **Workforce Development Cabinet** shall promulgate administrative regulations in
19 accordance with KRS Chapter 13A to set standards for a certified driver training
20 program and to otherwise carry out the provisions of this section.

21 ➔Section 54. KRS 205.178 is amended to read as follows:

22 (1) At a regularly scheduled interval, each enrollment or benefit tracking agency
23 associated with the Medicaid program or the food stamps program of the cabinet
24 shall receive and review information from the Kentucky Lottery Corporation
25 concerning individuals enrolled as recipients in the Medicaid program or the food
26 stamps program that indicates a change in circumstances that may affect eligibility,
27 including but not limited to changes in income or resources.

- 1 (2) On at least a monthly basis, each enrollment or benefit tracking agency associated
2 with the Medicaid program or the food stamps program of the cabinet shall receive
3 and review information from the Vital Statistics Branch concerning individuals
4 enrolled in the Medicaid program or the food stamps program that indicates a
5 change in circumstances that may affect eligibility.
- 6 (3) On at least a quarterly basis, each enrollment or benefit tracking agency associated
7 with the Medicaid program or the food stamps program of the cabinet shall receive
8 and review information from the Kentucky Office~~[Division]~~ of Unemployment
9 Insurance concerning individuals enrolled in the Medicaid program or the food
10 stamps program that indicates a change in circumstances that may affect eligibility,
11 including but not limited to changes in employment or wages.
- 12 (4) On at least a quarterly basis, each enrollment or benefit tracking agency associated
13 with the Medicaid program or the food stamps program of the cabinet shall receive
14 and review information concerning individuals enrolled in the Medicaid program or
15 the food stamps program that indicates a change in circumstances that may affect
16 eligibility, including but not limited to potential changes in residency as identified
17 by out-of-state electronic benefit transfer transactions.
- 18 (5) (a) Notwithstanding any other provision of law to the contrary, each enrollment or
19 benefit tracking agency associated with the Medicaid program or the food
20 stamps program of the cabinet shall enter into a memorandum of
21 understanding with any department, agency, or division for information
22 detailed in this section.
- 23 (b) Notwithstanding any other provision of law to the contrary, any department,
24 agency, or division for information detailed in this section, including but not
25 limited to the Kentucky Lottery Corporation, the Vital Statistics Branch, the
26 Office~~[Division]~~ of Unemployment Insurance, and the Department for
27 Community Based Services, shall enter into any necessary memoranda of

1 understanding with the enrollment or benefit tracking agency associated with
2 the Medicaid program or the food stamps program requesting an agreement
3 pursuant to paragraph (a) of this subsection.

4 (6) Each enrollment or benefit tracking agency associated with the Medicaid program
5 or the food stamps program of the cabinet may contract with one (1) or more
6 independent vendors to provide additional data or information which may indicate a
7 change in circumstances that may affect eligibility.

8 (7) Each enrollment or benefit tracking agency associated with the Medicaid program
9 or the food stamps program of the cabinet shall explore joining any multistate
10 cooperative to identify individuals who are also enrolled in public assistance
11 programs outside of this state.

12 (8) If an enrollment or benefit tracking agency associated with the Medicaid program or
13 the food stamps program of the cabinet receives information concerning an
14 individual enrolled in the Medicaid program or the food stamps program that
15 indicates a change in circumstances that may affect eligibility, the enrollment or
16 benefit tracking agency or other appropriate agency shall review the individual's
17 case.

18 (9) The food stamps program of the cabinet shall not seek, apply for, accept, or renew
19 any waiver of requirements established under 7 U.S.C. sec. 2015(o) unless there is
20 an economic downturn resulting in an unemployment rate of ten percent (10%) or
21 more or the Cabinet for Health and Family Services determines an increase in the
22 unemployment rate in any particular county is severe enough to necessitate a
23 waiver.

24 (10) The cabinet shall promulgate all rules and regulations necessary for the purposes of
25 carrying out this section.

26 (11) On or before December 1 of each year, the Cabinet for Health and Family Services
27 shall submit a report relating to the number of individuals discovered utilizing

1 services inappropriately, the number of individuals who were removed from one (1)
2 or more public assistance programs as a result of a review pursuant to this section,
3 and the amount of public funds preserved in total and by public assistance program
4 and aggregated by prior years. This report shall be forwarded to the Interim Joint
5 Committees on Health and Welfare and Family Services and Appropriations and
6 Revenue of the Legislative Research Commission.

7 ➔Section 55. KRS 336.020 is amended to read as follows:

8 (1) The Department of Workplace Standards shall be headed by a commissioner
9 appointed by the Governor in accordance with KRS 12.040 and shall be divided for
10 administrative purposes into the ~~{Division of Apprenticeship, the }~~Division of
11 Occupational Safety and Health Compliance, the Division of Occupational Safety
12 and Health Education and Training, and the Division of Wages and Hours. Each of
13 these divisions shall be headed by a director appointed by the secretary and
14 approved by the Governor in accordance with KRS 12.050.

15 (2) The Department of Workers' Claims shall be headed by a commissioner appointed
16 by the Governor, and confirmed by the Senate in accordance with KRS 342.228.
17 The department shall be divided for administrative purposes into the Office of
18 Administrative Law Judges, the Division of Claims Processing, the Division of
19 Security and Compliance, the Division of Workers' Compensation Funds, and the
20 Division of Specialist and Medical Services. The Office of Administrative Law
21 Judges shall be headed by a chief administrative law judge appointed in accordance
22 with KRS 342.230. Each division in the department shall be headed by a director
23 appointed by the secretary and approved by the Governor in accordance with KRS
24 12.050. The Workers' Compensation Board shall be attached to the Department of
25 Workers' Claims for administrative purposes only.

26 (3) The Office of General Counsel for the Labor Cabinet, the Office of Administrative
27 Services, and the Office of Inspector General are attached to the Office of the

1 Secretary of the Labor Cabinet.

2 (4) (a) The Office of General Counsel for the Labor Cabinet shall be headed by a
3 general counsel appointed by the secretary with approval by the Governor in
4 accordance with KRS 12.050 and 12.210.

5 (b) The Office of General Counsel shall be divided for administrative purposes
6 into the Workplace Standards Legal Division and the Workers' Claims Legal
7 Division.

8 (c) Each legal division shall be headed by a general counsel appointed by the
9 secretary with approval by the Governor in accordance with KRS 12.050 and
10 12.210.

11 (5) (a) The Office of Administrative Services shall be headed by an executive
12 director appointed by the Governor in accordance with KRS 12.040.

13 (b) The Office of Administrative Services shall be divided for administrative
14 purposes into the Division of Fiscal Management, the Division of Human
15 Resources Management, the Division of Information Technology and Support
16 Services, and the Division of Professional Development and Organizational
17 Management. Each division shall be headed by a director appointed by the
18 secretary and approved by the Governor in accordance with KRS 12.050.

19 (6) The Office of Inspector General shall be headed by an executive director appointed
20 by the Governor in accordance with KRS 12.040.

21 ➔Section 56. KRS 341.145 is amended to read as follows:

22 (1) The secretary of the Education and Workforce Development Cabinet may enter into
23 arrangements with the appropriate agencies of other states or of the federal
24 government, or both, for the purpose of assisting the secretary and such agencies in
25 the payment of benefits and the furnishing of services to unemployed or
26 underemployed workers. Such arrangements may provide that the respective
27 agencies shall, for and on behalf of each other, act as agents in effecting

1 registrations for work, notices of unemployment, and any other certifications or
2 statements relating to a worker's claim for benefits; in making investigations, taking
3 depositions, holding hearings, or otherwise securing information relating to benefit
4 eligibility and payments; and in such other matters as the secretary considers
5 suitable in effectuating the purpose of these administrative arrangements.

6 (2) The secretary may enter into arrangements with the appropriate agencies of other
7 states or the federal government whereby workers performing services in this and
8 other states for a single employing unit under circumstances not specifically
9 provided in KRS 341.050, or under similar provisions in the unemployment
10 compensation laws of such other states, shall be deemed to be engaged in
11 employment performed entirely within this state or within one of such other states.

12 (3) (a) The secretary shall participate in any arrangements for the payment of benefits
13 on the basis of combining an individual's wages and employment covered
14 under this chapter with his wages and employment covered under the
15 unemployment compensation laws of other states or the federal government
16 which are approved by the United States Secretary of Labor in consultation
17 with the state unemployment compensation agencies as reasonably calculated
18 to assure the prompt and full payment of benefits in such situations and which
19 include provisions for applying the base period of a single state law to a claim
20 involving the combining of an individual's wages and employment covered
21 under two (2) or more state unemployment compensation laws, and avoiding
22 the duplicate use of wages and employment by reason of such combining.
23 Reimbursements to another state or the federal government, paid from the
24 fund pursuant to this subsection, shall be deemed to be benefits for the
25 purposes of this chapter and charged to contributory employers' reserve
26 accounts and reimbursing employers' accounts in accordance with the
27 provisions of KRS 341.530(2) and (3) to the extent of calculations made on

1 wages paid during the base period established by KRS 341.090 and wages
2 paid after such base period; provided, however, benefits based on a period
3 previous to the base-wage period established by KRS 341.090 shall be
4 charged to the pooled account for contributing employers only. Provided, that
5 if the Secretary of Labor determines that the charging of reimbursements
6 provided above is inconsistent with the requirements of the Federal
7 Unemployment Tax Act, charges of such reimbursements shall then be made
8 in accordance with regulations prescribed by the secretary.

9 (b) In order that such reciprocal arrangements, when entered into, may be
10 effectuated, wages for insured work under an employment security law of
11 another state or of the federal government shall be deemed to be wages earned
12 in covered employment from a subject employer for the purpose of
13 determining his benefits under this chapter.

14 (4) Notwithstanding any other provision of this chapter, benefits shall not be denied or
15 reduced to an individual solely because he files a claim in another state (or a
16 contiguous country with which the United States has an agreement with respect to
17 unemployment compensation) or because he resides in another state (or such a
18 contiguous country) at the time he files a claim for benefits.

19 (5) To the extent permissible under the laws and Constitution of the United States, the
20 secretary is authorized to enter into or cooperate in arrangements or reciprocal
21 agreements with appropriate and duly authorized agencies of other states or the
22 United States Secretary of Labor or both, whereby:

23 (a) Overpayments of unemployment benefits, as determined under this chapter,
24 shall be recoverable (after due notice and opportunity for appeal has been
25 provided to the claimant) by offset from unemployment benefits otherwise
26 payable under the unemployment compensation law of another state, in either
27 the current or any subsequent benefit year, in an amount equivalent to the

1 amount of overpayment determined under this chapter, provided the ~~{Office of~~
2 ~~Employment and Training,}~~ Department of Workforce Investment, certifies to
3 the other state the facts involved and that the claimant is liable to repay the
4 benefits and the office requests the other state to recover the benefits; and

5 (b) Overpayments of unemployment benefits, as determined under the
6 unemployment compensation law of another state, shall be recoverable (after
7 such state has provided due notice and opportunity for appeal to the claimant)
8 by offset from unemployment benefits otherwise payable under this chapter, in
9 either the current or subsequent benefit year, in an amount equivalent to the
10 amount of overpayment determined by such other state, provided such state
11 certifies to the office the facts involved and that the individual is liable to
12 repay the benefits and the state requests the office to recover the benefits; and

13 (c) Provided there is in effect a reciprocal agreement between this state and the
14 United States Secretary of Labor, as authorized by Section 303(g)(2) of the
15 Social Security Act, the overpayment of unemployment benefits or allowances
16 for unemployment provided under a federal program administered by this state
17 shall be recoverable by offset from benefits otherwise payable under this
18 chapter or any such federal program. Such agreement shall also suffice to
19 permit the offset from unemployment benefits, otherwise payable under a
20 federal program administered by this state, the overpayment of unemployment
21 benefits paid under this chapter.

22 If another state also has in effect a like agreement with the United States Secretary
23 of Labor, then these provisions for cross-offset of state and federal unemployment
24 benefits shall apply to benefits otherwise payable under this chapter, the laws of the
25 other state or any federal unemployment program administered by either state.

26 ➔Section 57. KRS 341.243 is amended to read as follows:

27 (1) There is created within the State Treasury a special fund known as the service

1 capacity upgrade fund that shall be administered separate and apart from all public
2 money or funds of the state.

3 (2) The service capacity upgrade fund shall be used solely for acquisition and
4 upgrading of the technology base, program integrity functions, and service delivery
5 capacity in support of the programs administered by the Office of **Unemployment**
6 **Insurance**~~[Employment and Training]~~. The secretary shall have full power,
7 authority, and jurisdiction over the fund, including all money, property, and
8 securities belonging thereto, and shall perform any act necessary or convenient in
9 the administration of the fund consistent with this section. Any expenditure of the
10 fund shall be coordinated with and approved by the Commonwealth Office of
11 Technology, and nothing in this section shall be construed as reducing or limiting
12 the authority of the Commonwealth's chief information officer over all technology
13 expenditures. The secretary shall provide an annual report to the Interim Joint
14 Committee on Economic Development and Workforce Investment detailing all
15 receipts and expenditures of the fund.

16 (3) Any money collected under the provisions of this section shall be invested at
17 interest in banks or other interest-bearing obligations of the United States.
18 Investments shall at all times be made so that all the assets of the service capacity
19 upgrade fund shall be convertible into cash when needed for the payment of
20 expenses incurred in upgrading the service capacity of the Office of **Unemployment**
21 **Insurance**~~[Employment and Training]~~. All interest income received under this
22 section shall be credited to the fund. The State Treasurer shall dispose of securities
23 or other property belonging to the fund only under the direction of the secretary and
24 the secretary of the Finance and Administration Cabinet.

25 (4) Beginning October 1, 2018, all rates otherwise established under KRS 341.270 and
26 341.272 shall be adjusted by subtracting seventy-five thousandths percent (0.075%)
27 from each rate, but only if the unemployment insurance trust fund balance exceeds

1 the balance of the trust fund as of December 31, 2017.

2 (5) For any calendar year in which all rates have been reduced in accordance with
3 subsection (4) of this section, all contributory employers shall pay into the service
4 capacity upgrade fund an amount equal to the percentage by which rates were
5 reduced multiplied by their taxable wages paid during that calendar year. Payments
6 shall be made at the same time and in the same manner as prescribed for payment of
7 contributions under KRS 341.260 and all regulations prescribed by the secretary in
8 support of that section. The restrictions in KRS 341.470(1) apply equally to the
9 provisions of this section. Failure to make these payments shall be subject to
10 interest and all other collection actions provided for failure to make contributions
11 under KRS 341.300.

12 (6) All payments required under subsection (5) of this section, along with any interest
13 due to late payment of these assessments, shall be deposited in the service capacity
14 upgrade fund.

15 (7) Notwithstanding subsection (4) of this section, the secretary may exercise his or her
16 discretion to reduce the percentage rate prescribed in subsection (4) of this section
17 or suspend required payments to the service capacity upgrade fund at any time.

18 (8) The secretary shall suspend the reduction of the rate prescribed in subsection (4) of
19 this section at any time when collections for the service capacity upgrade fund
20 exceed a cumulative amount of sixty million dollars (\$60,000,000). At the time
21 payments are suspended, any funds thus far collected under subsection (4) of this
22 section in excess of those necessary to fund technology upgrades, shall be deposited
23 into the unemployment insurance trust fund. Any future collection of past due
24 payments to the service capacity upgrade fund, including any applicable penalty and
25 interest funds, shall be deposited into the penalty and interest fund.

26 ➔Section 58. KRS 341.250 is amended to read as follows:

27 (1) Any employing unit that becomes subject to this chapter within any calendar year

1 shall be considered a subject employer during the whole of that calendar year,
2 except as specifically provided elsewhere in this section or this chapter.

3 (2) Except as provided in subsections (3) and (5) of this section, a subject employer
4 shall cease to be a subject employer only as of the first day of January of any
5 calendar year if he files with the Office of Unemployment Insurance~~Employment~~
6 ~~and Training~~, Department of Workforce Investment, on or before the fifteenth day
7 of April of that year, a written application for termination of coverage, and the
8 covered employment performed for such subject employer within the preceding
9 calendar year was not sufficient to render an employing unit a subject employer
10 under KRS 341.070. The secretary may, however, after notifying such employer in
11 writing at his last known address, terminate the coverage of any subject employer as
12 of the first day of January of any calendar year if such subject employer has had no
13 individuals in covered employment in this state at any time during the three (3)
14 preceding calendar years, and the balance of such employer's reserve account may
15 be immediately transferred to the pooled account.

16 (3) (a) Any employing unit not otherwise subject to this chapter that files with the
17 office its written election to become a subject employer for not less than two
18 (2) calendar years shall, with the written approval of such election by the
19 secretary, become subject hereto to the same extent as all other subject
20 employers, as of the date stated in such approval, but not with respect to the
21 period previous to such date. Such subject employer shall cease to be subject
22 hereto as of January 1 of any calendar year subsequent to such two (2)
23 calendar years, only if on or before April 15 of such year, it has filed with the
24 office a written notice to that effect.

25 (b) Any employing unit for which services that do not constitute covered
26 employment are performed may file with the office a written election that all
27 such services performed by individuals in its employ in one (1) or more

1 distinct establishments or places of business shall be considered to constitute
2 covered employment by a subject employer for all the purposes of this chapter
3 for not less than two (2) calendar years. Upon written approval of such
4 election by the secretary, such services shall be considered to constitute
5 covered employment from and after the date stated in such approval, but not
6 with respect to the period previous to such date. Such services shall cease to
7 be considered covered employment subject hereto as of January 1 of a
8 calendar year subsequent to such two (2) calendar years, only if on or before
9 April 15 of such year such employing unit has filed with the office a written
10 notice to that effect.

11 (c) Any employing unit having service performed in covered employment solely
12 by reason of KRS 341.050(1)(h) may terminate such service as "covered
13 employment" as of the first day of January of any calendar year if such service
14 does not meet the provisions of paragraph (e), (f) or (g), but only if on or
15 before April 15 of such year, the employing unit has filed with the office a
16 written request to terminate service as "covered employment."

17 (4) An employing unit that becomes a subject employer under KRS 341.070(7), shall
18 become subject as of the date of acquisition.

19 (5) Notwithstanding the provisions of subsections (1), (2), and (3) of this section, any
20 subject employer whose entire reserve account has been transferred to a successor in
21 interest as provided for in KRS 341.540 shall immediately cease to be a subject
22 employer and shall thereafter become a subject employer only upon his future
23 employment experience.

24 ➔Section 59. KRS 341.260 is amended to read as follows:

25 (1) Contributions shall accrue and become payable by each subject employer for each
26 calendar year in which he is subject to this chapter. Such contributions shall be
27 based upon wages paid during such calendar year for covered employment. Such

1 contributions shall become due and be paid at the offices of the Office of
2 Unemployment Insurance~~[Employment and Training]~~, Department of Workforce
3 Investment, in Frankfort by each subject employer to the office for the fund in
4 accordance with such regulations as the secretary prescribes, and shall not be
5 deducted in whole or in part from the wages of workers in his employ. In the
6 payment of any contributions, a fractional part of a cent shall be disregarded, unless
7 it amounts to one-half cent (\$0.005) or more, in which case it shall be increased to
8 one cent (\$0.01).

9 (2) Any contractor, who is or becomes a subject employer under the provisions of this
10 chapter, who contracts with any subcontractor, who also is or becomes a subject
11 employer under the provisions of this chapter, shall withhold sufficient moneys on
12 said contract to guarantee that all contributions, penalties, and interest are paid upon
13 completion of said contract, or shall require of said subcontractor a good and
14 sufficient bond guaranteeing payment of all contributions, penalties, and interest
15 due, or to become due with respect to wages paid for employment on said contract.
16 Failure to comply with the provisions of this section shall render said contractor
17 directly liable for such contributions, penalties, and interest due from said
18 subcontractor and the wages paid by said subcontractor shall be deemed wages paid
19 by the said contractor with respect to the same periods for all purposes under this
20 chapter, and liens of the same nature are attachable and enforceable in the same
21 manner as liens under KRS 341.310 and 341.315. A person, employing unit, or
22 entity that enters into a verbal or written agreement with another, or between which
23 there exists an implied contract based upon the circumstances, conduct, or acts or
24 relations of the parties:

25 (a) To have work performed consisting of the removal, excavation or drilling of
26 soil, rock, or mineral, or the cutting or removal of timber from land; or

27 (b) To have work performed of a kind which is a customary or a recurrent part of

1 the work of the trade, business, occupation, or profession of such person or
2 entity, shall for the purposes of this subsection be deemed a contractor, and
3 such other person or entity a subcontractor. This subsection shall not apply to
4 the owner or lessee of land principally used for agriculture.

5 ➔Section 60. KRS 341.270 is amended to read as follows:

- 6 (1) Except as otherwise provided in this section, each employer's contribution rate shall
7 be three percent (3%). Effective for employers who become subject to this chapter
8 on or after January 1, 1999, except as otherwise provided in this section, each
9 employer's contribution rate shall be two and seven-tenths percent (2.7%).
- 10 (2) Except as otherwise provided in this section, no subject employer's contribution rate
11 shall be less than two and seven-tenths percent (2.7%), unless he has been an
12 employer subject to the provisions of this chapter for twelve (12) consecutive
13 calendar quarters ended as of the computation date. In any calendar year in which
14 the rate schedule prescribed in paragraph (3)(a) of this section is in effect, no
15 subject employer who was assigned an entry rate of three percent (3.0%) under the
16 provisions of subsection (1) of this section prior to January 1, 1999, shall have a
17 contribution rate less than two and eight hundred fifty-seven thousandths percent
18 (2.857%), unless subject to this chapter for the minimum time period specified
19 above.
- 20 (3) For the calendar year 2001 and each calendar year thereafter, employer contribution
21 rates shall be determined in accordance with "Table A" set out in subsection (4) of
22 this section. For each calendar year, the secretary shall determine the rate schedule
23 to be in effect based upon the "trust fund balance" as of September 30 of the
24 preceding year. If the "trust fund balance":
- 25 (a) Equals or exceeds one and eighteen hundredths percent (1.18%) of the total
26 wages paid in covered employment in the state during the state fiscal year
27 ended as of June 30 of that year, the rates listed in the "Trust Fund Adequacy

- 1 Rates" schedule of "Table A" shall be in effect;
- 2 (b) Equals or exceeds five hundred million dollars (\$500,000,000) but is less than
- 3 the amount required to effectuate the "Trust Fund Adequacy Rates" schedule
- 4 as provided in paragraph (a) of this subsection, the rates listed in "Schedule
- 5 A" of "Table A" shall be in effect;
- 6 (c) Equals or exceeds three hundred fifty million dollars (\$350,000,000) but is
- 7 less than five hundred million dollars (\$500,000,000), the rates listed in
- 8 "Schedule B" of "Table A" shall be in effect;
- 9 (d) Equals or exceeds two hundred fifty million dollars (\$250,000,000) but is less
- 10 than three hundred fifty million dollars (\$350,000,000), the rates listed in
- 11 "Schedule C" of "Table A" shall be in effect;
- 12 (e) Equals or exceeds one hundred fifty million dollars (\$150,000,000) but is less
- 13 than two hundred fifty million dollars (\$250,000,000), the rates listed in
- 14 "Schedule D" of "Table A" shall be in effect; and
- 15 (f) Is less than one hundred fifty million dollars (\$150,000,000), the rates listed in
- 16 "Schedule E" of "Table A" shall be in effect.
- 17 (4) For the calendar year 1982 and each calendar year thereafter, contribution rates shall
- 18 be determined upon the basis of an individual employer's reserve ratio as of the
- 19 computation date and the schedule of rates established under subsection (3) of this
- 20 section. Except as otherwise provided in this section, the contribution rate for each
- 21 subject employer for the calendar year immediately following the computation date
- 22 shall be the rate in that "Schedule" of "Table A," as set out below, effective with
- 23 respect to the calendar year, which appears on the same line as his reserve ratio as
- 24 shown in the "Employer Reserve Ratio" column of the same table.

TABLE A

Rate Schedule

27	Employer Trust	A	B	C	D	E
----	----------------	---	---	---	---	---

1	Reserve Fund							
2	Ratio Adequacy							
3		Rates						
4	8.0% and							
5	over	0.000%	0.30%	0.40%	0.50%	0.60%	1.00%	
6	7.0% but							
7	under 8.0%	0.000%	0.40%	0.50%	0.60%	0.80%	1.05%	
8	6.0% but							
9	under 7.0%	0.008%	0.50%	0.60%	0.70%	0.90%	1.10%	
10	5.0% but							
11	under 6.0%	0.208%	0.70%	0.80%	1.00%	1.20%	1.40%	
12	4.6% but							
13	under 5.0%	0.508%	1.00%	1.20%	1.40%	1.60%	1.80%	
14	4.2% but							
15	under 4.6%	0.808%	1.30%	1.50%	1.80%	2.10%	2.30%	
16	3.9% but							
17	under 4.2%	1.008%	1.50%	1.70%	2.20%	2.40%	2.70%	
18	3.6% but							
19	under 3.9%	1.308%	1.80%	1.80%	2.40%	2.60%	3.00%	
20	3.2% but							
21	under 3.6%	1.508%	2.00%	2.10%	2.50%	2.70%	3.10%	
22	2.7% but							
23	under 3.2%	1.608%	2.10%	2.30%	2.60%	2.80%	3.20%	
24	2.0% but							
25	under 2.7%	1.708%	2.20%	2.50%	2.70%	2.90%	3.30%	
26	1.3% but							
27	under 2.0%	1.808%	2.30%	2.60%	2.80%	3.00%	3.40%	

1	0.0% but						
2	under 1.3%	1.908%	2.40%	2.70%	2.90%	3.10%	3.50%
3	-0.5% but						
4	under -0.0%	6.500%	6.50%	6.75%	7.00%	7.25%	7.50%
5	-1.0% but						
6	under -0.5%	6.750%	6.75%	7.00%	7.25%	7.50%	7.75%
7	-1.5% but						
8	under -1.0%	7.000%	7.00%	7.25%	7.50%	7.75%	8.00%
9	-2.0% but						
10	under -1.5%	7.250%	7.25%	7.50%	7.75%	8.00%	8.25%
11	-3.0% but						
12	under -2.0%	7.500%	7.50%	7.75%	8.00%	8.25%	8.50%
13	-4.0% but						
14	under -3.0%	7.750%	7.75%	8.00%	8.25%	8.50%	8.75%
15	-6.0% but						
16	under -4.0%	8.250%	8.25%	8.50%	8.75%	9.00%	9.25%
17	-8.0% but						
18	under -6.0%	8.500%	8.50%	8.75%	9.00%	9.25%	9.50%
19	Less						
20	than -8.0%.	9.000%	9.00%	9.25%	9.50%	9.75%	10.00%

21 (5) As used in this section and elsewhere in this chapter, unless the context clearly
 22 requires otherwise:

23 (a) "Trust fund balance" means the amount of money in the unemployment
 24 insurance fund, less any unpaid advances made to the state under Section 1201
 25 of the Social Security Act. In determining the amount in the fund as of a given
 26 date all money received by the Office of Unemployment
 27 Insurance~~[Employment and Training]~~, Department of Workforce Investment,

- 1 on that date shall be considered as being in the fund on that date;
- 2 (b) "Total wages" means all remuneration for services, as defined in KRS
3 341.030(1) to (7), paid by subject employers;
- 4 (c) An employer's "reserve ratio" means the percentage ratio of his reserve
5 account balance as of the computation date to his taxable payrolls for the
6 twelve (12) consecutive calendar quarters ended as of June 30 immediately
7 preceding the computation date;
- 8 (d) For the purposes of this section, an employer's "reserve account balance"
9 means the amount of contributions credited to his reserve account as of the
10 computation date, less the benefit charges through June 30 immediately
11 preceding the computation date. If benefits charged to an account exceed
12 contributions credited to the account, the account shall be considered as
13 having a debit balance and a reserve ratio of "less than zero"; and
- 14 (e) "Computation date" is July 31 of each calendar year prior to the effective date
15 of new rates of contributions.

16 ➔Section 61. KRS 341.300 is amended to read as follows:

- 17 (1) Contributions unpaid on the date on which they are due and payable, as prescribed
18 by the secretary, shall be subject to interest at the rate of one and five-tenths percent
19 (1.5%) per month or fraction thereof, not to exceed ninety percent (90%) of the
20 amount of such contributions, from and after such date until payment is received by
21 the Office of Unemployment Insurance~~Employment and Training~~, Department of
22 Workforce Investment~~],~~ irrespective of whether such delinquency has been reduced
23 to a judgment or not as provided in subsection (2) of this section or is the subject of
24 an administrative appeal or court action. The interest charged for a month, in which
25 the unpaid contributions remain unpaid, shall be considered accrued and therefore
26 due and owing on the first day after the last day of the month in which the balance is
27 due. Such interest shall be paid into the unemployment compensation

1 administration fund.

2 (2) If, after due notice, any subject employer defaults in any payment of contributions,
3 interest or penalties thereon, the amount due shall be collected by a civil action
4 instituted in the Franklin Circuit Court or the Franklin District Court depending
5 upon the jurisdictional amount in controversy including interest and penalties in the
6 name of the state, and the subject employer adjudged in default shall pay the costs
7 of the action. Civil actions brought under this section shall be heard by the court,
8 without the intervention of a jury, at the earliest possible date, and shall be entitled
9 to preference upon the calendar of the court over all other civil actions except
10 petitions for judicial review under this chapter and cases arising under the workers'
11 compensation law.

12 (3) At or after the commencement of an action under subsection (2) of this section,
13 attachment may be had against the property of the liable subject employer for such
14 contributions, interest, and penalties, without the execution of a bond, or after
15 judgment has been entered an execution may be issued against the property of such
16 employer without the execution of a bond.

17 (4) An action for the recovery of contributions, interest, or penalties under this section
18 shall be barred and any lien therefor shall be canceled and extinguished unless
19 collected or suit for collection has been filed within ten (10) years from the due date
20 of such contributions, except, in the case of the filing of a false or fraudulent report,
21 the contributions due shall not be barred and may at any time be collected by the
22 methods set out in this chapter, including action in a court of competent jurisdiction.

23 ➔Section 62. KRS 341.360 is amended to read as follows:

24 (1) No worker may be paid benefits for any week of unemployment:

25 (a) With respect to which a strike or other bona fide labor dispute which caused
26 him to leave or lose his employment is in active progress in the establishment
27 in which he is or was employed, except that benefits may be paid unless the

1 employer notifies the Office of Unemployment Insurance~~Employment and~~
2 ~~Training~~, Department of Workforce Investment, in writing within seven (7)
3 days after the beginning of such alleged strike or labor dispute of the alleged
4 existence of such strike or labor dispute. For the purpose of this subsection, a
5 lockout shall not be deemed to be a strike or a bona fide labor dispute and no
6 worker shall be denied benefits by reason of a lockout;

7 (b) For which he has received or is seeking unemployment compensation under
8 an unemployment compensation law of another state or of the United States,
9 except as otherwise provided by an arrangement between this state and such
10 other state or the United States; but if the appropriate agency of such state or
11 of the United States finally determines that he is not entitled to such
12 unemployment compensation, this subsection shall not apply;

13 (c) 1. Which, when based on service in an instructional, research, or principal
14 administrative capacity in an institution of higher education as defined in
15 KRS 341.067(2) or in an educational institution as defined in KRS
16 341.067(4), begins during the period between two (2) successive
17 academic years, or during a similar period between two (2) regular
18 terms, whether or not successive, or during a period of paid sabbatical
19 leave provided for in the individual's contract, if the worker performs
20 such services in the first of such academic years or terms and if there is a
21 contract or a reasonable assurance that the worker will perform such
22 services in any such capacity for any institution or institutions of higher
23 education or an educational institution in the second of such academic
24 years or such terms; or

25 2. Which, when based on service other than as defined in subparagraph 1.
26 of this paragraph, in an institution of higher education or an educational
27 institution, as defined in KRS 341.067(2) or (4), begins during the

1 period between two (2) successive academic years or terms, if the
2 worker performs such services in the first of such academic years or
3 terms and there is a reasonable assurance that the worker will perform
4 such services in the second of such academic years or terms; except that
5 if benefits are denied to any worker under this paragraph and such
6 worker was not offered an opportunity to perform such services for such
7 institution of higher education or such educational institution for the
8 second of such academic years or terms, such worker shall be entitled to
9 a retroactive payment of benefits for each week for which the worker
10 filed a timely claim for benefits and for which benefits were denied
11 solely by reason of this paragraph; or

12 3. Which, when based on service in any capacity defined in subparagraphs
13 1. and 2. of this paragraph, begins during an established and customary
14 vacation period or holiday recess if the worker performs any such
15 services in the period immediately before such vacation period or
16 holiday recess, and there is a reasonable assurance that such worker will
17 perform any such services in the period immediately following such
18 vacation period or holiday recess; or

19 4. Based on service in any capacity defined in subparagraph 1. or 2. of this
20 paragraph when such service is performed by the worker in an institution
21 of higher education or an educational institution, as defined in KRS
22 341.067(2) or (4), while the worker is in the employ of an educational
23 service agency, and such unemployment begins during the periods and
24 pursuant to the conditions specified in subparagraphs 1., 2., and 3. of
25 this paragraph. For purposes of this paragraph, the term "educational
26 service agency" means a governmental agency or governmental entity
27 which is established and operated exclusively for the purpose of

1 providing such services to one (1) or more institutions of higher
2 education or educational institutions;

3 Notwithstanding any other provision of this paragraph, any benefits paid to a
4 worker based on service other than as defined in subparagraph 1. of this
5 paragraph performed in an institution of higher education as defined in KRS
6 341.067(2) shall be deemed to have been paid as a result of Office of
7 Unemployment Insurance~~[Employment and Training]~~, Department of
8 Workforce Investment, error and not recoverable by the cabinet or such
9 institution if such payment is improper by virtue of the retroactive application
10 to October 30, 1983, of subparagraph 2. of this paragraph; or

11 (d) With respect to which the worker is suspended from work for misconduct, as
12 defined in KRS 341.370(6), connected with the work.

13 (2) Benefits shall not be paid to any individual on the basis of any services,
14 substantially all of which consist of participating in sports or athletic events or
15 training or preparing to so participate, for any week which commences during the
16 period between two (2) successive sport seasons or similar periods and there is a
17 reasonable assurance that such individual will perform such services in the later of
18 such seasons or similar periods.

19 (3) (a) Benefits shall not be paid on the basis of services performed by an alien unless
20 such alien is an individual who was lawfully admitted for permanent residence
21 at the time such services were performed, was lawfully present for purposes of
22 performing such services, or was residing in the United States under color of
23 law at the time such services were performed, including an alien who was
24 lawfully present in the United States as a result of the application of the
25 provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and
26 Nationality Act.

27 (b) Any data or information required of individuals applying for benefits to

1 determine whether benefits are not payable to them because of their alien
2 status shall be uniformly required from all applicants for benefits.

3 (c) In the case of an individual whose application for benefits would otherwise be
4 approved, no determination that benefits to such individual are not payable
5 because of his alien status shall be made except upon a preponderance of the
6 evidence.

7 ➔Section 63. KRS 341.410 is amended to read as follows:

8 The secretary acting through his duly authorized representatives shall, upon request,
9 determine the insured status of a worker. If a worker is found to have fully insured status,
10 as defined in KRS 341.090(3), the Office~~[Division]~~ of Unemployment Insurance shall
11 notify all interested parties. If found to be not fully insured, the division shall notify the
12 worker. The secretary may, at any time, make further determinations as may affect the
13 worker's eligibility for benefits or may set aside, reconsider, modify, or amend a
14 determination at any time on the basis of additional information or to correct a clerical
15 mistake. The secretary may by regulation prescribe what constitutes a determination as
16 used in this section and KRS 341.420(2) and (3). Any further determination made
17 pursuant to this section may be appealed pursuant to KRS 341.420.

18 ➔Section 64. KRS 341.415 is amended to read as follows:

19 (1) (a) Any person who has received any sum as benefits under this chapter or any
20 other state's unemployment insurance statutes or any United States
21 Department of Labor unemployment insurance benefit program, providing the
22 secretary has signed a reciprocal agreement with such other state or the United
23 States Department of Labor as provided in KRS 341.145, while any condition
24 for the receipt of such benefits was not fulfilled in his case, or while he was
25 disqualified from receiving benefits, or if he has received benefits in weeks for
26 which he later receives a back pay award, shall, in the discretion of the
27 secretary, either have such sum deducted from any future benefits payable to

1 him under this chapter or repay the Office of Unemployment
2 Insurance~~[Employment and Training]~~, Department of Workforce Investment,
3 for the fund a sum equal to the amount so received by him.

4 (b) If after due notice, the recipient of such sum fails to remit or arrange for
5 remittance of the sum, the sum may be collected in the manner provided in
6 KRS 341.300(2) for collection of past-due contributions and any sums so
7 collected shall be credited to the pooled account or the appropriate
8 reimbursing employer account.

9 (c) The appropriate reimbursing employer account shall not receive credit for
10 sums collected under this subsection or KRS 341.550(2)(b) if a determination
11 has been made that an improper benefit payment established after October 21,
12 2013, was due to the reimbursing employer, or an agent of the employer, in
13 accordance with the provisions of KRS 341.530(4)(a) and (b). The sums
14 collected shall be credited to the pooled account.

15 (d) If any benefit was paid as a result of office error as defined by administrative
16 regulation, there shall be no recoupment or recovery of an improperly paid
17 benefit, except by deduction from any future benefits payable to him under
18 this chapter. For purposes of this section, overpayments as a result of a
19 reversal of entitlement to benefits in the appeal or review process shall not be
20 construed to be the result of office error.

21 (2) At or after the commencement of an action under subsection (1) of this section,
22 attachment may be had against property of the recipient of improperly paid benefits
23 in the manner provided in KRS 341.300(3).

24 (3) A lien on a parity with state, county, and municipal ad valorem tax liens, is hereby
25 created in favor of the office upon all property of any recipient of improperly paid
26 benefits. This lien shall be for a sum equal to the amount of the overpayment finally
27 determined and shall continue until the amount of the overpayment plus any

1 subsequent assessment of additional improperly paid benefits, penalty, interest, and
2 fees are fully paid. The lien shall commence from such time as the recipient has
3 exhausted or abandoned the appeal procedure set forth in this chapter and the
4 amount of the overpayment is finally fixed. A notice of lien may be filed in the
5 same manner as that provided for in KRS 341.310.

6 (4) Any amount paid to a person as benefits, which he has been found liable to repay or
7 to have deducted from future benefits under subsections (1), (2), and (3) of this
8 section, which has neither been repaid nor so deducted within a period of five (5)
9 years following the last day of the benefit year within which it was paid, may be
10 deemed to be uncollectible and shall be permanently charged to the pooled account,
11 except that if such payment was made by reason of fraudulent representations, no
12 future benefits shall be paid such person within a period of ten (10) years of the last
13 day of the benefit year within which such payments were made at which time these
14 amounts may be declared uncollectible. Nothing in this subsection shall be deemed
15 to affect collection of improperly paid benefits pursuant to a judgment or other legal
16 remedy.

17 (5) In the event benefits have been paid as a result of a false statement,
18 misrepresentation, or concealment of material information by a recipient of benefits
19 and have not been repaid by the recipient within one (1) calendar year from the date
20 of the first notice, interest at the rate of one and five-tenths percent (1.5%) per
21 month or any part thereof, shall be imposed on and added to the unpaid balance
22 each successive month, providing due notice has been given to the recipient. Such
23 interest shall be paid into the unemployment compensation administration account.

24 (6) A recipient of benefits paid as a result of a false statement, misrepresentation, or
25 concealment of material information by the recipient shall be assessed a fifteen
26 percent (15%) penalty of the amount of improperly paid benefits. The penalty under
27 this subsection shall be collected in the same manner as improperly paid benefits in

1 this section and paid into the unemployment trust fund.

2 (7) The deduction from future benefits specified in subsection (1) of this section shall
3 be limited to twenty-five percent (25%) of the benefit amount otherwise payable
4 under this chapter unless the overpayment resulted from a backpay award, false
5 statement, misrepresentation, or concealment of material information by a recipient
6 of benefits. In these instances, the rate of deduction shall be one hundred percent
7 (100%). The rate of deduction from benefits payable by another state or the United
8 States of America shall be determined by the applicable state or federal statute.

9 ➔Section 65. KRS 341.440 is amended to read as follows:

10 (1) The manner in which appeals are presented and hearings and appeals conducted
11 shall be in accordance with regulations prescribed by the secretary for determining
12 the rights of the parties, and such hearings to be conducted in a summary manner. A
13 complete record shall be kept of all proceedings in connection with any appeal. All
14 testimony at any hearing upon an appeal shall be recorded either stenographically or
15 mechanically, but need not be transcribed unless further appealed. No examiner,
16 referee or member of the commission shall participate in any hearing in which he is
17 an interested party.

18 (2) Witnesses subpoenaed pursuant to proceedings under KRS 341.420 and 341.430
19 shall be allowed fees in accordance with rates allowed by law. Such fees and all
20 expenses of proceedings before the Office of Unemployment
21 Insurance~~[Employment and Training]~~, Department of Workforce Investment, or
22 commission involving disputed claims shall be deemed a part of the expense of
23 administering this chapter.

24 (3) In the absence of an appeal therefrom, decisions of the commission shall become
25 final twenty (20) days after the date they are made.

26 ➔Section 66. KRS 341.470 is amended to read as follows:

27 (1) No agreement by a worker to waive, release, or commute his rights to benefits or

1 any other rights under this chapter shall be valid. No agreement by any worker to
2 pay any portion of a subject employer's contributions, required under this chapter
3 from such subject employer, shall be valid. No subject employer shall directly or
4 indirectly make or require or accept any deductions from wages to finance the
5 subject employer's contributions required of him. In cases involving awards to a
6 worker by an arbitrator, court, or other administrative body or mediator, the
7 secretary may require the employer to withhold benefits paid under this chapter
8 from the award and pay the amount withheld into the unemployment insurance trust
9 fund. All subject employers are required to notify the Office of Unemployment
10 Insurance~~[Employment and Training]~~, Department of Workforce Investment, prior
11 to paying any back pay award.

12 (2) No worker claiming benefits shall be charged fees of any kind in any proceeding
13 under this chapter by the commission, the secretary, or his or her representatives.
14 Any worker claiming benefits in any proceeding before a referee or the commission
15 may represent himself or herself or may be represented by counsel or other agent
16 duly authorized by such worker and shall be afforded the opportunity to participate
17 in the proceeding without restriction; but no counsel or agent shall either charge or
18 receive for such service more than an amount approved by the commission.

19 (3) (a) Any employer in any proceeding before a referee or the commission may
20 represent himself or may be represented by counsel or other agent duly
21 authorized by such employer; and

22 (b) Any person appearing in any proceeding before a referee or the commission
23 who is an officer of, or who regularly performs in a managerial capacity for, a
24 corporation or partnership which is a party to the proceeding in which the
25 appearance is made shall be permitted to represent such corporation or
26 partnership and shall be afforded the opportunity to participate in the
27 proceeding without restriction.

1 (4) No assignment, pledge, or encumbrance of any right to benefits due or payable
2 under this chapter shall be valid; and such rights to benefits shall be exempt from
3 levy, execution, attachment, or any other remedy for the collection of debt. Benefits
4 received by any worker, as long as they are not mingled with other funds of the
5 recipient, shall be exempt from any remedy for the collection of all debts except
6 debts incurred for necessities furnished to such worker or his spouse or dependents
7 during the time such worker was unemployed. No waiver of any exemption
8 provided for in this subsection shall be valid.

9 (5) The provisions of this section shall not be applicable to child support deductions
10 made in accordance with KRS 341.392 and withholding for federal and state
11 income tax in accordance with KRS 341.395.

12 ➔Section 67. KRS 341.530 is amended to read as follows:

13 (1) The Office of Unemployment Insurance~~[Employment and Training]~~, Department
14 of Workforce Investment, shall maintain a reserve account for each subject
15 employer making contributions to the fund and a reimbursing employer account for
16 each subject employer making payment in lieu of contributions, and shall, except as
17 provided in KRS 341.590, credit to such account the total amount of all
18 contributions or benefit reimbursement paid by the employer on his own behalf.
19 Nothing in this section or elsewhere in this chapter shall be construed to grant any
20 employer or individual who is or was in his employ prior claims or rights to the
21 amounts paid by him into the fund.

22 (2) Except as provided in subsection (3) of this section, all regular benefits paid to an
23 eligible worker in accordance with KRS 341.380 plus the extended benefits paid in
24 accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs
25 (a) and (b) of this subsection, shall be charged against the reserve account or
26 reimbursing employer account of his most recent employer. No employer shall be
27 deemed to be the most recent employer unless the eligible worker to whom benefits

1 are payable shall have worked for such employer in each of ten (10) weeks whether
2 or not consecutive back to the beginning of the worker's base period.

3 (a) Subject employers, which are not governmental entities as defined in KRS
4 341.069, shall be charged one-half (1/2) of the extended benefits paid in
5 accordance with KRS 341.700 to 341.740; and

6 (b) Subject employers which are governmental entities, as defined in KRS
7 341.069, shall be charged for all extended benefits paid in accordance with
8 KRS 341.700 to 341.740 for compensable weeks occurring on or after January
9 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable
10 weeks occurring prior to such date.

11 (3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an
12 eligible worker and chargeable to a contributing employer's reserve account under
13 such subsection shall be charged against the pooled account if such worker was
14 discharged by such employer for misconduct connected with his most recent work
15 for such employer, voluntarily left his most recent work with such employer without
16 good cause attributable to the employment, or the employer has continued to
17 provide part-time employment and wages, without interruption, to the same extent
18 that was provided from the date of hire, and the employer within a reasonable time,
19 as prescribed by regulation of the secretary, notifies the office, in writing, of the
20 alleged voluntary quitting, discharge for misconduct or continuing part-time
21 employment; provided, however, that no employer making payments to the fund in
22 lieu of contributions shall be relieved of charges by reason of this subsection.

23 (4) Notwithstanding the provisions of subsection (3) of this section, no contributing
24 employer's reserve account shall be relieved of any charges for benefits relating to
25 an improper benefit payment to a worker established after October 21, 2013, if:

26 (a) The improper benefit payment was made because the employer, or an agent of
27 the employer, was at fault for failing to respond timely or adequately to the

- 1 request of the secretary for information relating to a claim for benefits; and
- 2 (b) The employer, or an agent of the employer, has a pattern of failing to respond
3 timely or adequately to requests under paragraph (a) of this subsection. For
4 purposes of this paragraph, a "pattern of failing" means at least six (6) failures
5 occur in a calendar year or the failure to respond to two percent (2%) of such
6 requests in a calendar year, whichever is greater.
- 7 (5) Any determination under subsection (4) of this section shall be transmitted to the
8 last known physical or electronic address provided by the employer and may be
9 appealed in accordance with the provisions of KRS 341.420(2).
- 10 (6) Each subject employer's reserve account or reimbursing account shall, unless
11 terminated as of the computation date (as defined in subsection (5) of KRS
12 341.270), be charged with all benefits paid to eligible workers which are chargeable
13 to such reserve account or reimbursing account under subsection (2) of this section.
14 A subject employer's reserve account or reimbursing account shall be deemed to be
15 terminated if he has ceased to be subject to this chapter, and his account has been
16 closed and any balance remaining therein has been transferred to the fund's pooled
17 account or to a successor's account as provided in KRS 341.540 or has been
18 refunded if the employer is a reimbursing employer.
- 19 (7) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal
20 Revenue Code sec. 501(c)(3) organizations may jointly request the secretary to
21 establish a group reserve account or reimbursing account for such nonprofit
22 organizations. Two (2) or more governmental entities may jointly request the
23 secretary to establish a group reserve account or reimbursing account, and once
24 established, such account shall remain in effect at least two (2) calendar years and
25 thereafter until either dissolved at the discretion of the secretary or upon filing
26 application for dissolution by the group members. Each member of a group shall be
27 jointly and severally liable for all payments due under this chapter from each or all

1 of such group members. The secretary shall prescribe such procedures as he deems
2 necessary for the establishment, maintenance, and dissolution of a group reserve
3 account or reimbursing account.

4 (8) Any subject contributing employer may at any time on or before December 31,
5 2011, make voluntary payments to the fund, additional to the contributions required
6 under KRS 341.260 and 341.270. Effective January 1, 2012, any subject
7 contributing employer with a negative reserve account balance may make voluntary
8 payments to the fund every other calendar year, in addition to the contributions
9 required under KRS 341.260 and 341.270. Notwithstanding any other provision of
10 this chapter, contributions paid on or before the computation date and voluntary
11 payments made within twenty (20) days following the mailing of notices of new
12 rates shall be credited to an employer's reserve account as of the computation date,
13 provided no voluntary payments shall be used in computing an employer's rate
14 unless the payment is made prior to the expiration of one hundred and twenty (120)
15 days after the beginning of the year for which the rate is effective. Voluntary
16 payments by any employer shall not exceed any negative balance they may have in
17 their reserve account as of the computation date. Any employer who is delinquent in
18 the payment of contributions, penalties, or interest as of the computation date shall
19 be entitled to make voluntary payments only after the amount of the delinquency is
20 paid in full.

21 ➔Section 68. KRS 341.540 is amended to read as follows:

22 (1) As used in this section, unless the context clearly requires otherwise:

23 (a) "Substantially common" or "substantially the same" means that there is
24 identifiable or demonstrative commonality or similarity of ownership, familial
25 relationships, principals or corporate officers, day-to-day operations, assets
26 and liabilities, and stated business;

27 (b) "Trade" or "business" includes but is not limited to a commercial enterprise or

- 1 establishment; any entity engaged in the supplying, production, or
2 manufacturing of goods, commodities, or services; any entity engaged in
3 commerce, sale for profit, or the providing of goods, personnel, or services;
- 4 (c) "Knowingly" means having actual knowledge of, or acting with deliberate
5 ignorance or disregard for, the prohibition involved;
- 6 (d) "Violates" or "attempts to violate" includes, but is not limited to, intended
7 evasion, misrepresentation, or willful nondisclosure; and
- 8 (e) "Person" has the same meaning as in Section 7701(a)(1) of the Internal
9 Revenue Code.
- 10 (2) (a) For the purpose of this chapter, if a subject employer transfers all or part of its
11 trade or business, the acquiring employing unit shall be deemed a successor if
12 the transfer is in accordance with administrative regulations promulgated by
13 the secretary, or if there is substantially common ownership, management, or
14 control of the subject employer and employing unit. If an employing unit is
15 deemed a successor, the transferring employing unit shall be deemed a
16 predecessor.
- 17 (b) For the purpose of this chapter, if a nonsubject employer acquires all or part of
18 the trade or business of a subject employer, the nonsubject employer shall file
19 an application with the Office of Unemployment Insurance~~Employment and~~
20 ~~Training~~, Department of Workforce Investment to establish an
21 unemployment reserve account within forty-five (45) days of employing
22 personnel. The application will be considered and processed in accordance
23 with administrative regulations promulgated by the secretary and shall require
24 information necessary to determine whether the nonsubject employer is a
25 successor of the subject employer and to establish an initial unemployment
26 contribution rate for the employer. Factors to be considered in the
27 determination of successorship and the fixing of the initial rate shall include

1 but not be limited to the nonsubject employer's prior unemployment claims
2 history, benefit charges, historical rate charges, and payment penalties
3 assessed in the previous five (5) years, in addition to the factors set forth in
4 subsection (6)(b) of this section. After consideration of these factors, and
5 others that the applicant may submit in justification of an initial rate
6 determination, the secretary shall set an appropriate contribution rate. Any
7 determinations of initial unemployment contribution rates made pursuant to
8 this subsection shall not be effective prior to January 1, 2018.

9 (3) (a) Notwithstanding subsection (2)(b) of this section, any successor to the trade or
10 business of a subject employer shall assume the resources and liabilities of the
11 predecessor's reserve account, including interest, and shall continue the
12 payment of all contributions and interest due under this chapter, except that
13 the successor shall not be required to assume the liability of any delinquent
14 contributions and interest of a predecessor or predecessors unless the cabinet
15 notifies the successor of the delinquency within six (6) months after the
16 department has notice of the succession; and

17 (b) Any nonsubject employer that is deemed a successor in whole or part shall be
18 allowed to make a one (1) time voluntary payment to pay off or reduce the
19 negative reserve assumed from the predecessor. This payment shall be made
20 within sixty (60) days of receipt of the first notice of a negative predecessor
21 reserve account. This one (1) time voluntary payment cannot exceed the
22 amount of negative reserve assumed by the successor.

23 (4) The liability for delinquent contributions and interest imposed upon the successor
24 by subsection (3) of this section shall be secondary to the liability of the predecessor
25 or predecessors, and if the delinquency has been reduced to judgment, the order of
26 execution on the judgment shall be as follows:

27 (a) Against the assets, both real and personal, of the predecessor or predecessors;

- 1 (b) Against the assets, both real and personal, of the business acquired; and
- 2 (c) Against the assets, both real and personal, of the successor or acquirer.
- 3 (5) (a) Notwithstanding the provisions of subsection (3) of this section, any successor
- 4 to a portion of the trade or business of a subject employer, who is, or by
- 5 reason of the transfer becomes, a subject employer, shall assume the resources
- 6 and liabilities of the predecessor's reserve account in proportion to the
- 7 percentage of the payroll or employees assignable to the transferred portion. In
- 8 calculating the transferred portion, the secretary shall utilize the last four (4)
- 9 calendar quarters preceding the date of transfer for workers employed by the
- 10 successor subsequent to that date. The taxable payroll, benefit charges and the
- 11 potential benefit charges shall be assumed by the successors in a like
- 12 proportion.
- 13 (b) Notwithstanding the provisions of paragraph (a) of this subsection, if any
- 14 employing unit succeeds to a portion of the trade or business of another
- 15 employing unit; becomes, by reason of that succession, a subject employer
- 16 with substantially the same ownership, management, or control as the
- 17 predecessor employing unit; and lays off or terminates more than one-half
- 18 (1/2) of the original employees transferred within six (6) months of the date of
- 19 transfer; then the succession and creation of the new employing unit shall be
- 20 voided, and the benefits attributable to the lay-offs or terminations shall be
- 21 charged to the reserve account of the original employing unit.
- 22 (6) (a) The contribution rate of a successor in whole or in part, which was a subject
- 23 employer prior to succession, shall not be affected by the transfer of the
- 24 reserve account for the remainder of the rate year in which succession
- 25 occurred; except that the rate of the successor shall be recalculated and made
- 26 effective upon the first day of the calendar quarter immediately following the
- 27 date of the transfer if there is substantially common ownership, management,

1 or control of the predecessor and successor.

2 (b) The contribution rate of a successor in whole or in part, which was not a
3 subject employer prior to succession, shall be determined by a review of the
4 application required by subsection (2)(b) of this section, except if the secretary
5 finds, after a thorough investigation based on the use of objective factors,
6 including but not limited to:

- 7 1. The cost of acquiring the business;
- 8 2. How long the original business enterprise was continued; and
- 9 3. Whether a substantial number of new employees were hired for
10 performance of duties unrelated to the business activity prior to
11 acquisition;

12 that the succession was solely for the purpose of obtaining a rate lower than
13 that prescribed in KRS 341.270(1) and 341.272 for a new employing unit,
14 then the unemployment experience of the predecessor shall not be transferred,
15 the rate for a new employing unit shall be assigned, and the employing unit
16 shall be otherwise deemed a successor for the purpose of KRS 341.070(7) and
17 subsection (3) of this section.

18 (c) The contribution rate for a successor which becomes a subject employer
19 through the simultaneous transfer, either in whole or in part, of two (2) or
20 more predecessor reserve accounts shall be the rate determined in accordance
21 with the provisions of KRS 341.270, by combining the reserve accounts
22 succeeded to as of the computation date for determining rates for the calendar
23 year in which succession occurred.

24 (d) The contribution rate of a successor which succeeds, either in whole or in part,
25 to a predecessor's reserve account after a computation date, but prior to the
26 beginning of the calendar year immediately following that computation date,
27 shall be the rate determined in accordance with KRS 341.270, by effecting the

1 transfer of the reserve account as of the computation date immediately
2 preceding the date of succession.

3 (7) Notwithstanding KRS 341.270, the contribution rate for an employing unit that
4 knowingly violates or attempts to violate the provisions of this section or any other
5 provision of the chapter related to determining the assignment of a contribution rate
6 shall be the highest rate assignable under this chapter for the calendar year during
7 which the violation or attempted violation occurred and the three (3) calendar years
8 immediately following that year. If that employer's rate is already at the highest
9 assignable rate, or if the amount of increase in the employer's rate would be less
10 than an additional two percent (2%) for that year, then a penalty rate of
11 contributions of an additional two percent (2%) of taxable wages shall be imposed
12 for each year.

13 (8) In addition to the penalties prescribed in subsection (7) of this section and KRS
14 341.990(9), any person who knowingly violates this section shall be subject to the
15 penalties stipulated under KRS 341.990.

16 (9) (a) The secretary shall establish procedures to identify the transfer of a business
17 for purposes of this section.

18 (b) The secretary shall have the authority and discretion to set an initial
19 contribution rate upon the providing of justification by a subject employer and
20 consideration of relevant factors, including but not limited to the factors set
21 forth in subsections (2) and (6)(a) of this section.

22 ➔Section 69. KRS 341.990 is amended to read as follows:

23 (1) Except as otherwise provided in subsection (11) of this section, any employee of
24 any state agency who violates any of the provisions of KRS 341.110 to 341.230
25 shall be guilty of a Class B misdemeanor.

26 (2) Any person subpoenaed to appear and testify or produce evidence in an inquiry,
27 investigation, or hearing conducted under this chapter who fails to obey the

- 1 subpoena shall be guilty of a Class B misdemeanor.
- 2 (3) Any subject employer, or officer or agent of a subject employer, who violates
3 subsection (1) of KRS 341.470 shall be guilty of a Class A misdemeanor.
- 4 (4) Any person who violates subsection (2) of KRS 341.470 shall be guilty of a Class A
5 misdemeanor.
- 6 (5) Any person who knowingly makes a false statement or representation of a material
7 fact or knowingly fails to disclose a material fact to the secretary to obtain or
8 increase any benefit under this chapter or under an employment security law of any
9 other state, or of the federal government, either for himself or for any other person,
10 business entity, or organization shall be guilty of a Class A misdemeanor unless the
11 value of the benefits procured or attempted to be procured is one hundred dollars
12 (\$100) or more, in which case he shall be guilty of a Class D felony.
- 13 (6) (a) Any person who knowingly makes a false statement or representation, or who
14 knowingly fails to disclose a material fact to prevent or reduce the payment of
15 benefits to any worker entitled thereto, or to avoid becoming or remaining
16 subject to this chapter, or to avoid or reduce any payment required of an
17 employing unit under this chapter shall be guilty of a Class A misdemeanor
18 unless the liability avoided or attempted to be avoided is one hundred dollars
19 (\$100) or more, in which case he shall be guilty of a Class D felony.
- 20 (b) Any person who willfully fails or refuses to furnish any reports required, or to
21 produce or permit the inspection or copying of records required in this chapter
22 shall be guilty of a Class B misdemeanor. Each such false statement,
23 representation or failure and each day of failure or refusal shall constitute a
24 separate offense.
- 25 (7) In any prosecution for the violation of subsection (5) or (6) of this section, it shall
26 be a defense if the person relied on the advice of an employee or agent of the Office
27 of Unemployment Insurance~~[Employment and Training]~~, Department of

1 Workforce Investment.

2 (8) Any person who willfully violates any provision of this chapter or any rule or
3 regulation under it, the violation of which is made unlawful or the observance of
4 which is required under the terms of this chapter, and for which no specific penalty
5 is prescribed in this chapter or in any other applicable statute, shall be guilty of a
6 violation. Each day the violation continues shall constitute a separate offense.

7 (9) In addition to the higher rates imposed under KRS 341.540(7), any person, whether
8 or not an employing unit, who knowingly advises or assists an employing unit in the
9 violation or attempted violation of KRS 341.540 or any other provision of this
10 chapter related to determining the assignment of a contribution rate shall be subject
11 to a civil monetary penalty of not less than five thousand dollars (\$5,000).

12 (10) Proceeds from all penalties imposed under subsection (9) of this section and KRS
13 341.540 shall be deposited in the unemployment compensation administration
14 account and shall be expended solely for the cost of administration of this chapter
15 consistent with KRS 341.240.

16 (11) Any person who violates the confidentiality provision in KRS 341.190(4) shall be
17 guilty of a Class A misdemeanor.

18 ➔Section 70. KRS 342.0011 is amended to read as follows:

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

20 (1) "Injury" means any work-related traumatic event or series of traumatic events,
21 including cumulative trauma, arising out of and in the course of employment which
22 is the proximate cause producing a harmful change in the human organism
23 evidenced by objective medical findings. "Injury" does not include the effects of the
24 natural aging process, and does not include any communicable disease unless the
25 risk of contracting the disease is increased by the nature of the employment.
26 "Injury" when used generally, unless the context indicates otherwise, shall include
27 an occupational disease and damage to a prosthetic appliance, but shall not include

- 1 a psychological, psychiatric, or stress-related change in the human organism, unless
2 it is a direct result of a physical injury;
- 3 (2) "Occupational disease" means a disease arising out of and in the course of the
4 employment;
- 5 (3) An occupational disease as defined in this chapter shall be deemed to arise out of
6 the employment if there is apparent to the rational mind, upon consideration of all
7 the circumstances, a causal connection between the conditions under which the
8 work is performed and the occupational disease, and which can be seen to have
9 followed as a natural incident to the work as a result of the exposure occasioned by
10 the nature of the employment and which can be fairly traced to the employment as
11 the proximate cause. The occupational disease shall be incidental to the character of
12 the business and not independent of the relationship of employer and employee. An
13 occupational disease need not have been foreseen or expected but, after its
14 contraction, it must appear to be related to a risk connected with the employment
15 and to have flowed from that source as a rational consequence;
- 16 (4) "Injurious exposure" shall mean that exposure to occupational hazard which would,
17 independently of any other cause whatsoever, produce or cause the disease for
18 which the claim is made;
- 19 (5) "Death" means death resulting from an injury or occupational disease;
- 20 (6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the
21 liability of employers under this chapter and includes a self-insurer;
- 22 (7) "Self-insurer" is an employer who has been authorized under the provisions of this
23 chapter to carry his own liability on his employees covered by this chapter;
- 24 (8) "Department" means the Department of Workers' Claims in the Labor Cabinet;
- 25 (9) "Commissioner" means the commissioner of the Department of Workers' Claims
26 under the direction and supervision of the secretary of the Labor Cabinet;
- 27 (10) "Board" means the Workers' Compensation Board;

- 1 (11) (a) "Temporary total disability" means the condition of an employee who has not
2 reached maximum medical improvement from an injury and has not reached a
3 level of improvement that would permit a return to employment;
- 4 (b) "Permanent partial disability" means the condition of an employee who, due to
5 an injury, has a permanent disability rating but retains the ability to work; and
- 6 (c) "Permanent total disability" means the condition of an employee who, due to
7 an injury, has a permanent disability rating and has a complete and permanent
8 inability to perform any type of work as a result of an injury, except that total
9 disability shall be irrebuttably presumed to exist for an injury that results in:
- 10 1. Total and permanent loss of sight in both eyes;
 - 11 2. Loss of both feet at or above the ankle;
 - 12 3. Loss of both hands at or above the wrist;
 - 13 4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at
14 or above the wrist;
 - 15 5. Permanent and complete paralysis of both arms, both legs, or one (1)
16 arm and one (1) leg;
 - 17 6. Incurable insanity or imbecility; or
 - 18 7. Total loss of hearing;
- 19 (12) "Income benefits" means payments made under the provisions of this chapter to the
20 disabled worker or his dependents in case of death, excluding medical and related
21 benefits;
- 22 (13) "Medical and related benefits" means payments made for medical, hospital, burial,
23 and other services as provided in this chapter, other than income benefits;
- 24 (14) "Compensation" means all payments made under the provisions of this chapter
25 representing the sum of income benefits and medical and related benefits;
- 26 (15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical
27 rehabilitation services, medicines, and fittings for artificial or prosthetic devices;

- 1 (16) "Person" means any individual, partnership, limited partnership, limited liability
2 company, firm, association, trust, joint venture, corporation, or legal representative
3 thereof;
- 4 (17) "Wages" means, in addition to money payments for services rendered, the
5 reasonable value of board, rent, housing, lodging, fuel, or similar advantages
6 received from the employer, and gratuities received in the course of employment
7 from persons other than the employer as evidenced by the employee's federal and
8 state tax returns;
- 9 (18) "Agriculture" means the operation of farm premises, including the planting,
10 cultivation, producing, growing, harvesting, and preparation for market of
11 agricultural or horticultural commodities thereon, the raising of livestock for food
12 products and for racing purposes, and poultry thereon, and any work performed as
13 an incident to or in conjunction with the farm operations, including the sale of
14 produce at on-site markets and the processing of produce for sale at on-site markets.
15 It shall not include the commercial processing, packing, drying, storing, or canning
16 of such commodities for market, or making cheese or butter or other dairy products
17 for market;
- 18 (19) "Beneficiary" means any person who is entitled to income benefits or medical and
19 related benefits under this chapter;
- 20 (20) "United States," when used in a geographic sense, means the several states, the
21 District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the
22 territories of the United States;
- 23 (21) "Alien" means a person who is not a citizen, a national, or a resident of the United
24 States or Canada. Any person not a citizen or national of the United States who
25 relinquishes or is about to relinquish his residence in the United States shall be
26 regarded as an alien;
- 27 (22) "Insurance carrier" means every insurance carrier or insurance company authorized

1 to do business in the Commonwealth writing workers' compensation insurance
2 coverage and includes the Kentucky Employers Mutual Insurance Authority and
3 every self-insured group operating under the provisions of this chapter;

4 (23) (a) "Severance or processing of coal" means all activities performed in the
5 Commonwealth at underground, auger, and surface mining sites; all activities
6 performed at tipple or processing plants that clean, break, size, or treat coal;
7 and all activities performed at coal loading facilities for trucks, railroads, and
8 barges. Severance or processing of coal shall not include acts performed by a
9 final consumer if the acts are performed at the site of final consumption.

10 (b) "Engaged in severance or processing of coal" shall include all individuals,
11 partnerships, limited partnerships, limited liability companies, corporations,
12 joint ventures, associations, or any other business entity in the Commonwealth
13 which has employees on its payroll who perform any of the acts stated in
14 paragraph (a) of this subsection, regardless of whether the acts are performed
15 as owner of the coal or on a contract or fee basis for the actual owner of the
16 coal. A business entity engaged in the severance or processing of coal,
17 including but not limited to administrative or selling functions, shall be
18 considered wholly engaged in the severance or processing of coal for the
19 purpose of this chapter. However, a business entity which is engaged in a
20 separate business activity not related to coal, for which a separate premium
21 charge is not made, shall be deemed to be engaged in the severance or
22 processing of coal only to the extent that the number of employees engaged in
23 the severance or processing of coal bears to the total number of employees.
24 Any employee who is involved in the business of severing or processing of
25 coal and business activities not related to coal shall be prorated based on the
26 time involved in severance or processing of coal bears to his total time;

27 (24) "Premium" for every self-insured group means any and all assessments levied on its

1 members by such group or contributed to it by the members thereof. For special
2 fund assessment purposes, "premium" also includes any and all membership dues,
3 fees, or other payments by members of the group to associations or other entities
4 used for underwriting, claims handling, loss control, premium audit, actuarial, or
5 other services associated with the maintenance or operation of the self-insurance
6 group;

7 (25) (a) "Premiums received" for policies effective on or after January 1, 1994, for
8 insurance companies means direct written premiums as reported in the annual
9 statement to the Department of Insurance by insurance companies, except that
10 "premiums received" includes premiums charged off or deferred, and, on
11 insurance policies or other evidence of coverage with provisions for
12 deductibles, the calculated cost for coverage, including experience
13 modification and premium surcharge or discount, prior to any reduction for
14 deductibles. The rates, factors, and methods used to calculate the cost for
15 coverage under this paragraph for insurance policies or other evidence of
16 coverage with provisions for deductibles shall be the same rates, factors, and
17 methods normally used by the insurance company in Kentucky to calculate the
18 cost for coverage for insurance policies or other evidence of coverage without
19 provisions for deductibles, except that, for insurance policies or other
20 evidence of coverage with provisions for deductibles effective on or after
21 January 1, 1995, the calculated cost for coverage shall not include any
22 schedule rating modification, debits, or credits. For policies with provisions
23 for deductibles with effective dates on or after January 1, 1995, assessments
24 shall be imposed on premiums received as calculated by the deductible
25 program adjustment. The cost for coverage calculated under this paragraph by
26 insurance companies that issue only deductible insurance policies in Kentucky
27 shall be actuarially adequate to cover the entire liability of the employer for

1 compensation under this chapter, including all expenses and allowances
2 normally used to calculate the cost for coverage. For policies with provisions
3 for deductibles with effective dates of May 6, 1993, through December 31,
4 1993, for which the insurance company did not report premiums and remit
5 special fund assessments based on the calculated cost for coverage prior to the
6 reduction for deductibles, "premiums received" includes the initial premium
7 plus any reimbursements invoiced for losses, expenses, and fees charged
8 under the deductibles. The special fund assessment rates in effect for
9 reimbursements invoiced for losses, expenses, or fees charged under the
10 deductibles shall be those percentages in effect on the effective date of the
11 insurance policy. For policies covering leased employees as defined in KRS
12 342.615, "premiums received" means premiums calculated using the
13 experience modification factor of each lessee as defined in KRS 342.615 for
14 each leased employee for that portion of the payroll pertaining to the leased
15 employee.

16 (b) "Direct written premium" for insurance companies means the gross premium
17 written less return premiums and premiums on policies not taken but
18 including policy and membership fees.

19 (c) "Premium," for policies effective on or after January 1, 1994, for insurance
20 companies means all consideration, whether designated as premium or
21 otherwise, for workers' compensation insurance paid to an insurance company
22 or its representative, including, on insurance policies with provisions for
23 deductibles, the calculated cost for coverage, including experience
24 modification and premium surcharge or discount, prior to any reduction for
25 deductibles. The rates, factors, and methods used to calculate the cost for
26 coverage under this paragraph for insurance policies or other evidence of
27 coverage with provisions for deductibles shall be the same rates, factors, and

1 methods normally used by the insurance company in Kentucky to calculate the
2 cost for coverage for insurance policies or other evidence of coverage without
3 provisions for deductibles, except that, for insurance policies or other
4 evidence of coverage with provisions for deductibles effective on or after
5 January 1, 1995, the calculated cost for coverage shall not include any
6 schedule rating modifications, debits, or credits. For policies with provisions
7 for deductibles with effective dates on or after January 1, 1995, assessments
8 shall be imposed as calculated by the deductible program adjustment. The cost
9 for coverage calculated under this paragraph by insurance companies that
10 issue only deductible insurance policies in Kentucky shall be actuarially
11 adequate to cover the entire liability of the employer for compensation under
12 this chapter, including all expenses and allowances normally used to calculate
13 the cost for coverage. For policies with provisions for deductibles with
14 effective dates of May 6, 1993, through December 31, 1993, for which the
15 insurance company did not report premiums and remit special fund
16 assessments based on the calculated cost for coverage prior to the reduction
17 for deductibles, "premium" includes the initial consideration plus any
18 reimbursements invoiced for losses, expenses, or fees charged under the
19 deductibles.

20 (d) "Return premiums" for insurance companies means amounts returned to
21 insureds due to endorsements, retrospective adjustments, cancellations,
22 dividends, or errors.

23 (e) "Deductible program adjustment" means calculating premium and premiums
24 received on a gross basis without regard to the following:

- 25 1. Schedule rating modifications, debits, or credits;
- 26 2. Deductible credits; or
- 27 3. Modifications to the cost of coverage from inception through and

1 including any audit that are based on negotiated retrospective rating
2 arrangements, including but not limited to large risk alternative rating
3 options;

4 (26) "Insurance policy" for an insurance company or self-insured group means the term
5 of insurance coverage commencing from the date coverage is extended, whether a
6 new policy or a renewal, through its expiration, not to exceed the anniversary date
7 of the renewal for the following year;

8 (27) "Self-insurance year" for a self-insured group means the annual period of
9 certification of the group created pursuant to KRS 342.350(4) and 304.50-010;

10 (28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1)
11 shall be the projected value of the employer's workers' compensation claims for the
12 next calendar year as calculated by the commissioner using generally-accepted
13 actuarial methods as follows:

14 (a) The base period shall be the earliest three (3) calendar years of the five (5)
15 calendar years immediately preceding the calendar year for which the
16 calculation is made. The commissioner shall identify each claim of the
17 employer which has an injury date or date of last injurious exposure to the
18 cause of an occupational disease during each one (1) of the three (3) calendar
19 years to be used as the base, and shall assign a value to each claim. The value
20 shall be the total of the indemnity benefits paid to date and projected to be
21 paid, adjusted to current benefit levels, plus the medical benefits paid to date
22 and projected to be paid for the life of the claim, plus the cost of medical and
23 vocational rehabilitation paid to date and projected to be paid. Adjustment to
24 current benefit levels shall be done by multiplying the weekly indemnity
25 benefit for each claim by the number obtained by dividing the statewide
26 average weekly wage which will be in effect for the year for which the
27 premium is being calculated by the statewide average weekly wage in effect

1 during the year in which the injury or date of the last exposure occurred. The
2 total value of the claims using the adjusted weekly benefit shall then be
3 calculated by the commissioner. Values for claims in which awards have been
4 made or settlements reached because of findings of permanent partial or
5 permanent total disability shall be calculated using the mortality and interest
6 discount assumptions used in the latest available statistical plan of the
7 advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The
8 sum of all calculated values shall be computed for all claims in the base
9 period;

10 (b) The commissioner shall obtain the annual payroll for each of the three (3)
11 years in the base period for each employer carrying his own risk from records
12 of the department and from the records of the Department of Workforce
13 Investment~~Office of Employment and Training~~, Education and Workforce
14 Development Cabinet. The commissioner shall multiply each of the three (3)
15 years of payroll by the number obtained by dividing the statewide average
16 weekly wage which will be in effect for the year in which the premium is
17 being calculated by the statewide average weekly wage in effect in each of the
18 years of the base period;

19 (c) The commissioner shall divide the total of the adjusted claim values for the
20 three (3) year base period by the total adjusted payroll for the same three (3)
21 year period. The value so calculated shall be multiplied by 1.25 and shall then
22 be multiplied by the employer's most recent annualized payroll, calculated
23 using records of the department and the Department of Workforce
24 Investment~~Office of Employment and Training~~ data which shall be made
25 available for this purpose on a quarterly basis as reported, to obtain the
26 premium for the next calendar year for assessment purposes under KRS
27 342.122;

- 1 (d) For November 1, 1987, through December 31, 1988, premium for each
2 employer carrying its own risk shall be an amount calculated by the board
3 pursuant to the provisions contained in this subsection and such premium
4 shall be provided to each employer carrying its own risk and to the funding
5 commission on or before January 1, 1988. Thereafter, the calculations set
6 forth in this subsection shall be performed annually, at the time each employer
7 applies or renews its application for certification to carry its own risk for the
8 next twelve (12) month period and submits payroll and other data in support
9 of the application. The employer and the funding commission shall be notified
10 at the time of the certification or recertification of the premium calculated by
11 the commissioner, which shall form the employer's basis for assessments
12 pursuant to KRS 342.122 for the calendar year beginning on January 1
13 following the date of certification or recertification;
- 14 (e) If an employer having fewer than five (5) years of doing business in this state
15 applies to carry its own risk and is so certified, its premium for the purposes of
16 KRS 342.122 shall be based on the lesser number of years of experience as
17 may be available including the two (2) most recent years if necessary to create
18 a three (3) year base period. If the employer has less than two (2) years of
19 operation in this state available for the premium calculation, then its premium
20 shall be the greater of the value obtained by the calculation called for in this
21 subsection or the amount of security required by the commissioner pursuant to
22 KRS 342.340(1);
- 23 (f) If an employer is certified to carry its own risk after having previously insured
24 the risk, its premium shall be calculated using values obtained from claims
25 incurred while insured for as many of the years of the base period as may be
26 necessary to create a full three (3) year base. After the employer is certified to
27 carry its own risk and has paid all amounts due for assessments upon

- 1 premiums paid while insured, the employer shall be assessed only upon the
2 premium calculated under this subsection;
- 3 (g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated
4 as set forth in this subsection; and
- 5 (h) Notwithstanding any other provision of this subsection, the premium of any
6 employer authorized to carry its own risk for purposes of assessments due
7 under this chapter shall be no less than thirty cents (\$0.30) per one hundred
8 dollars (\$100) of the employer's most recent annualized payroll for employees
9 covered by this chapter;
- 10 (29) "SIC code" as used in this chapter means the Standard Industrial Classification
11 Code contained in the latest edition of the Standard Industrial Classification Manual
12 published by the Federal Office of Management and Budget;
- 13 (30) "Investment interest" means any pecuniary or beneficial interest in a provider of
14 medical services or treatment under this chapter, other than a provider in which that
15 pecuniary or investment interest is obtained on terms equally available to the public
16 through trading on a registered national securities exchange, such as the New York
17 Stock Exchange or the American Stock Exchange, or on the National Association of
18 Securities Dealers Automated Quotation System;
- 19 (31) "Managed health care system" means a health care system that employs gatekeeper
20 providers, performs utilization review, and does medical bill audits;
- 21 (32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists,
22 podiatrists, and osteopathic and chiropractic practitioners acting within the scope of
23 their license issued by the Commonwealth;
- 24 (33) "Objective medical findings" means information gained through direct observation
25 and testing of the patient applying objective or standardized methods;
- 26 (34) "Work" means providing services to another in return for remuneration on a regular
27 and sustained basis in a competitive economy;

1 (35) "Permanent impairment rating" means percentage of whole body impairment caused
2 by the injury or occupational disease as determined by the "Guides to the Evaluation
3 of Permanent Impairment";

4 (36) "Permanent disability rating" means the permanent impairment rating selected by an
5 administrative law judge times the factor set forth in the table that appears at KRS
6 342.730(1)(b); and

7 (37) "Guides to the Evaluation of Permanent Impairment" means, except as provided in
8 KRS 342.262:

9 (a) The fifth edition published by the American Medical Association; and

10 (b) For psychological impairments, Chapter 12 of the second edition published by
11 the American Medical Association.

12 ➔Section 71. KRS 342.122 is amended to read as follows:

13 (1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose
14 of funding and prefunding the liabilities of the special fund, financing the
15 administration and operation of the Kentucky Workers' Compensation
16 Funding Commission, and financing the expenditures for all programs in the
17 Labor Cabinet, except the ~~Division of Apprenticeship and~~ Division of
18 Wages and Hours in the Department of Workplace Standards, as reflected in
19 the enacted budget of the Commonwealth and enacted by the General
20 Assembly, the funding commission shall impose a special fund assessment
21 rate of nine percent (9%) upon the amount of workers' compensation
22 premiums received on and after January 1, 1997, through December 31, 1997,
23 by every insurance carrier writing workers' compensation insurance in the
24 Commonwealth, by every self-insured group operating under the provisions of
25 KRS 342.350(4) and Chapter 304, and against the premium, as defined in
26 KRS 342.0011, of every employer carrying his or her own risk.

27 (b) The funding commission shall, for calendar year 1998 and thereafter, establish

1 for the special fund an assessment rate to be assessed against all premium
2 received during that calendar year which shall produce enough revenue to
3 amortize on a level basis the unfunded liability of the special fund as of June
4 30 preceding January 1 of each year, for the period remaining until December
5 31, 2029. The interest rate to be used in this calculation shall reflect the
6 funding commission's investment experience to date and the current
7 investment policies of the commission. This assessment shall be imposed
8 upon the amount of workers' compensation premiums received by every
9 insurance carrier writing workers' compensation insurance in the
10 Commonwealth, by every self-insured group operating under the provisions of
11 KRS 342.350(4) and Chapter 304, and against the premium, as defined in
12 KRS 342.0011, of every employer carrying its own risk. On or before October
13 1 of each year, the commission shall notify each insurance carrier writing
14 workers' compensation insurance in the Commonwealth, every group of self-
15 insured employers, and each employer carrying its own risk, of the rates which
16 shall become effective on January 1 of each year, unless modified by the
17 General Assembly.

18 (c) All assessments imposed by this section shall be paid to the Kentucky
19 Workers' Compensation Funding Commission and shall be credited to the
20 benefit reserve fund within the Kentucky Workers' Compensation Funding
21 Commission.

22 (d) The assessments imposed in this chapter shall be in lieu of all other
23 assessments or taxes on workers' compensation premiums.

24 (2) (a) These assessments shall be paid quarterly not later than the thirtieth day of the
25 month following the end of the quarter in which the premium is received.
26 Receipt shall be considered timely through actual physical receipt or by
27 postmark of the United States Postal Service. Employers carrying their own

1 risk and employers defined in KRS 342.630(2) shall pay the annual
2 assessments in four (4) equal quarterly installments.

3 (b) Beginning on January 1, 2020, all assessments shall be electronically remitted
4 to the funding commission quarterly not later than the thirtieth day of the
5 month following the end of the quarter in which the premium is received.
6 Receipt shall be considered timely when filed and remitted using the
7 appropriate electronic pay system as prescribed by the funding commission.
8 Employers carrying their own risk and employers defined in KRS 342.630(2)
9 shall pay the annual assessments in four (4) equal quarterly installments.

10 (3) The assessments imposed by this section may be collected by the insurance carrier
11 from the insured. However, the insurance carrier shall not collect from the employer
12 any amount exceeding the assessments imposed pursuant to this section. If the
13 insurance carrier collects the assessment from an insured, the assessment shall be
14 collected at the same time and in the same proportion as the premium is collected.
15 The assessment for an insurance policy or other evidence of coverage providing a
16 deductible may be collected in accordance with this chapter on a premium amount
17 that equates to the premium that would have applied without the deductible. Each
18 statement from an insurance carrier presented to an insured reflecting premium and
19 assessment amounts shall clearly identify and distinguish the amount to be paid for
20 premium and the amount to be paid for assessments. No insurance carrier shall
21 collect from an insured an amount in excess of the assessment percentages imposed
22 by this chapter. The assessment for an insurance policy or other evidence of
23 coverage providing a deductible may be collected in accordance with this chapter on
24 a premium amount that equates to the premium that would have applied without the
25 deductible. The percentages imposed by this chapter for an insurance policy issued
26 by an insurance company shall be those percentages in effect on the annual effective
27 date of the policy, regardless of the date that the premium is actually received by the

1 insurance company.

2 (4) A self-insured group may elect to report its premiums and to have its assessments
3 computed in the same manner as insurance companies. This election may not be
4 rescinded for at least ten (10) years, nor may this election be made a second time for
5 at least another ten (10) years, except that the board of directors of the funding
6 commission may, at its discretion, waive the ten (10) year ban on a case-by-case
7 basis after formal petition has been made to the funding commission by a self-
8 insured group.

9 (5) The funding commission, as part of the collection and auditing of the special fund
10 assessments required by this section, shall annually require each insurance carrier
11 and each self-insured group to provide a list of employers which it has insured or
12 which are members and the amount collected from each employer. Additionally, the
13 funding commission shall require each entity paying a special fund assessment to
14 report the SIC code for each employer and the amount of premium collected from
15 each SIC code. An insurance carrier or self-insured group may require its insureds
16 or members to furnish the SIC code for each of their employees. However, the
17 failure of any employer to furnish said codes shall not relieve the insurance carrier
18 or self-insured group from the obligation to furnish same to the funding
19 commission. The *Department of Workforce Investment*~~Office of Employment and~~
20 ~~Training~~, Education and Workforce Development Cabinet, is hereby directed to
21 make available the SIC codes assigned in its records to specific employers to aid in
22 the reporting and recording of the special fund assessment data.

23 (6) Each self-insured employer, self-insured group, or insurance carrier shall provide
24 any information and submit any reports the Department of Revenue or the funding
25 commission may require to effectuate the provisions of this section. In addition, the
26 funding commission may enter reciprocal agreements with other governmental
27 agencies for the exchange of information necessary to effectuate the provisions of

1 this section.

2 (7) The special fund shall be required to maintain a central claim registry of all claims
3 to which it is named a party, giving each such claim a unique claim number and
4 thereafter recording the status of each claim on a current basis. The registry shall be
5 established by January 26, 1988, for all claims on which payments were made since
6 July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all
7 claim files in the possession of the special fund.

8 (8) The fund heretofore designated as the subsequent claim fund is abolished, and there
9 is substituted therefor the special fund as set out by this section, and all moneys and
10 properties owned by the subsequent claim fund are transferred to the special fund.

11 (9) Notwithstanding any other provisions of this section or this chapter to the contrary,
12 the total amount of funds collected pursuant to the assessment rates adopted by the
13 funding commission shall not be limited to the provisions of this section.

14 (10) All assessment rates imposed for periods prior to January 1, 1997, under KRS
15 342.122 shall forever remain applicable to premiums received on policies with
16 effective dates prior to January 1, 1997, by every insurance carrier writing workers'
17 compensation insurance in the Commonwealth, by every self-insured group
18 operating under the provision of KRS 342.350(4) and Chapter 304, and against the
19 premium, as defined in KRS 342.0011, of every employer carrying its own risk.

20 ➔Section 72. KRS 342.710 is amended to read as follows:

21 (1) One of the primary purposes of this chapter shall be restoration of the injured
22 employee to gainful employment, and preference shall be given to returning the
23 employee to employment with the same employer or to the same or similar
24 employment.

25 (2) The commissioner shall continuously study the problems of rehabilitation, both
26 physical and vocational, and shall investigate and maintain a directory of all
27 rehabilitation facilities, both private and public.

- 1 (3) An employee who has suffered an injury covered by this chapter shall be entitled to
2 prompt medical rehabilitation services for whatever period of time is necessary to
3 accomplish physical rehabilitation goals which are feasible, practical, and
4 justifiable. When as a result of the injury he or she is unable to perform work for
5 which he or she has previous training or experience, he or she shall be entitled to
6 such vocational rehabilitation services, including retraining and job placement, as
7 may be reasonably necessary to restore him or her to suitable employment. In all
8 such instances, the administrative law judge shall inquire whether such services
9 have been voluntarily offered and accepted. The administrative law judge on his or
10 her own motion, or upon application of any party or carrier, after affording the
11 parties an opportunity to be heard, may refer the employee to a qualified physician
12 or facility for evaluation of the practicability of, need for, and kind of service,
13 treatment, or training necessary and appropriate to render him or her fit for a
14 remunerative occupation. Upon receipt of such report, the administrative law judge
15 may order that the services and treatment recommended in the report, or such other
16 rehabilitation treatment or service likely to return the employee to suitable, gainful
17 employment, be provided at the expense of the employer or its insurance carrier.
18 Vocational rehabilitation training, treatment, or service shall not extend for a period
19 of more than fifty-two (52) weeks, except in unusual cases when by special order of
20 the administrative law judge, after hearing and upon a finding, determined by sound
21 medical evidence which indicates such further rehabilitation is feasible, practical,
22 and justifiable, the period may be extended for additional periods.
- 23 (4) Where rehabilitation requires residence at or near the facility or institution, away
24 from the employee's customary residence, reasonable cost of his or her board,
25 lodging, or travel shall be paid for by the employer or its insurance carrier.
- 26 (5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge
27 shall result in a fifty percent (50%) loss of compensation for each week of the

1 period of refusal.

2 (6) The commissioner shall cooperate on a reciprocal basis with the Office of
3 Vocational Rehabilitation and the Department of Workforce Investment~~Office of~~
4 ~~Employment and Training~~ of the Education and Workforce Development Cabinet.
5 In the event medical treatment, medical rehabilitation services, or vocational
6 rehabilitation services are purchased for an injured employee by the Office of
7 Vocational Rehabilitation or Department of Workforce Investment~~Office of~~
8 ~~Employment and Training~~ following the refusal by the employer or its insurance
9 carrier to provide such services, the administrative law judge, after affording the
10 parties an opportunity to be heard, may order reimbursement of the cost of such
11 treatment or services by the employer or its insurance carrier as apportioned in the
12 award. This section shall not be interpreted to require mandatory evaluation of
13 employees based on length of disability. Any administrative regulations
14 promulgated pursuant to this section that require mandatory referral to a qualified
15 rehabilitation counselor shall expire on April 4, 1994.

16 (7) An employee who is enrolled and participating in a program of rehabilitation
17 training pursuant to this section may elect to receive an acceleration of benefits as
18 awarded under KRS 342.730. Such acceleration shall be available to the employee
19 during the period of retraining, but in no event shall be paid in a weekly amount
20 greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage
21 upon which the award is based, not to exceed one hundred percent (100%) of the
22 state average weekly wage. Upon successful completion of the rehabilitation
23 program, the total of all accelerated benefits paid shall be deducted on a dollar-for-
24 dollar basis, without discount, from weekly benefits otherwise due the employee
25 subject to the maximum amount of the award. Such remaining benefits, if any, shall
26 then be divided by the number of weeks remaining payable under the award, and
27 that amount shall be the weekly benefit due the employee. If a program of

1 rehabilitation training is terminated by the employee prior to completion, all sums
2 paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265
3 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due
4 the employee subject to the maximum amount of the award. Such remaining
5 benefits, after the discount, shall be divided by the number of weeks remaining
6 payable under the award, and that amount shall be the weekly benefit due the
7 employee. In no event shall this subsection be construed as requiring payment of
8 benefits in excess of the total of those benefits which would otherwise be payable
9 under the award.

10 ➔Section 73. KRS 342.732 is amended to read as follows:

11 (1) Notwithstanding any other provision of this chapter, income benefits and retraining
12 incentive benefits for occupational pneumoconiosis resulting from exposure to coal
13 dust in the severance or processing of coal shall be paid as follows:

14 (a) 1. If an employee has a radiographic classification of category 1/0, 1/1 or
15 1/2, coal workers' pneumoconiosis and spirometric test values of eighty
16 percent (80%) or more, the employee shall be awarded a one (1) time
17 only retraining incentive benefit which shall be an amount equal to
18 sixty-six and two-thirds percent (66-2/3%) of the employee's average
19 weekly wage as determined by KRS 342.740, but not more than seventy-
20 five percent (75%) of the state average weekly wage, payable
21 semimonthly for a period not to exceed one hundred four (104) weeks,
22 except as provided in subparagraph 3. of this paragraph.

23 2. Except as provided in subparagraph 3. of this paragraph, these benefits
24 shall be paid only while the employee is enrolled and actively and
25 successfully participating as a full-time student taking the equivalent of
26 twelve (12) or more credit hours per week in a bona fide training or
27 education program that if successfully completed will qualify the person

1 completing the course for a trade, occupation, or profession and which
2 program can be completed within the period benefits are payable under
3 this subsection. The program must be approved under administrative
4 regulations to be promulgated by the commissioner. These benefits shall
5 also be paid to an employee who is a part-time student taking not less
6 than the equivalent of six (6) nor more than eleven (11) credit hours per
7 week, except that benefits shall be an amount equal to thirty-three and
8 one-third percent (33-1/3%) of the employee's average weekly wage as
9 determined by KRS 342.740, but not more than thirty-seven and one-
10 half percent (37-1/2%) of the state average weekly wage, payable
11 biweekly for a period not to exceed two hundred eight (208) weeks.

12 3. These benefits shall also be paid biweekly while an employee is actively
13 and successfully pursuing a High School Equivalency Diploma in
14 accordance with administrative regulations promulgated by the
15 commissioner. These benefits shall be paid in the amount of sixty-six
16 and two-thirds percent (66-2/3%) of the employee's average weekly
17 wage not to exceed seventy-five percent (75%) of the state average
18 weekly wage for a maximum period not to exceed seventeen (17) weeks.
19 These income benefits shall be in addition to the maximum amount of
20 retraining incentive benefits payable under this paragraph.

21 4. The employer shall also pay, directly to the institution conducting the
22 training or education program, instruction, tuition, and material costs not
23 to exceed five thousand dollars (\$5,000).

24 5. The employee shall notify the parties of his or her intention to retrain
25 within thirty (30) days after the administrative law judge's order
26 becomes final. The employee must initiate retraining within three
27 hundred sixty-five (365) days of the administrative law judge's final

1 order. Income benefits payable under subparagraphs 1. and 2. of this
2 paragraph shall begin no later than thirty (30) days following conclusion
3 of income benefits paid under subparagraph 3. if such benefits were
4 paid.

5 6. If an employee who is awarded retraining incentive benefits under this
6 paragraph successfully completes a bona fide training or education
7 program approved by the commissioner, upon completion of the training
8 or education program, the employer shall pay to that employee the sum
9 of five thousand dollars (\$5,000) for successful completion of a program
10 that requires a course of study of not less than twelve (12) months nor
11 more than eighteen (18) months, or the sum of ten thousand dollars
12 (\$10,000) for successful completion of a program that requires a course
13 of study of more than eighteen (18) months. This amount shall be in
14 addition to retraining incentive benefits awarded under this paragraph,
15 and tuition expenses paid by the employer.

16 7. An employee who is age fifty-seven (57) years or older on the date of
17 last exposure and who is awarded retraining incentive benefits under
18 subparagraphs 1. to 4. of this paragraph, may elect to receive in lieu of
19 retraining incentive benefits, an amount equal to sixty-six and two-thirds
20 percent ($66\frac{2}{3}\%$) of the employee's average weekly wage, not to exceed
21 seventy-five percent (75%) of the state average weekly wage as
22 determined by KRS 342.740 multiplied by the disability rating of
23 twenty-five percent (25%) for a period not to exceed four hundred
24 twenty-five (425) weeks, or until the employee reaches sixty-five (65)
25 years of age, whichever occurs first, KRS 342.730(4) notwithstanding.

26 8. A claim for retraining incentive benefits provided under this section may
27 be filed, but benefits shall not be payable, while an employee is

- 1 employed in the severance or processing of coal as defined in KRS
2 342.0011(23).
- 3 9. If an employer appeals an award of retraining incentive benefits, upon an
4 employee's motion, an administrative law judge may grant retraining
5 incentive benefits pending appeal as interlocutory relief.
- 6 10. If an employee elects to defer payment of retraining incentive benefits
7 for a period of retraining longer than three hundred sixty-five (365) days,
8 benefits otherwise payable shall be reduced week-for-week for each
9 week retraining benefits are further deferred;
- 10 (b) 1. If an employee has a radiographic classification of category 1/0, 1/1, or
11 1/2 coal workers' pneumoconiosis and respiratory impairment evidenced
12 by spirometric test values of fifty-five percent (55%) or more but less
13 than eighty percent (80%) of the predicted normal values, or category
14 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and spirometric test values
15 of eighty percent (80%) or more of the predicted normal values, there
16 shall be an irrebuttable presumption that the employee has a disability
17 rating of twenty-five percent (25%) resulting from exposure to coal dust,
18 and the employee shall be awarded an income benefit which shall be an
19 amount equal to sixty-six and two-thirds percent (66-2/3%) of the
20 employee's average weekly wage, but not to exceed seventy-five percent
21 (75%) of the state average weekly wage as determined by KRS 342.740
22 multiplied by the disability rating of twenty-five percent (25%). The
23 award shall be payable for a period not to exceed four hundred twenty-
24 five (425) weeks.
- 25 2. An employee who is awarded benefits under this paragraph may, at the
26 time of the award or before benefit payments begin, elect to receive
27 retraining incentive benefits provided under paragraph (a)1. to 6. of this

1 subsection, in lieu of income benefits awarded under this paragraph,
2 provided that such option is available one (1) time only and is not
3 revocable, and provided that in no event shall income benefits payable
4 under this paragraph be stacked or added to retraining incentive income
5 benefits paid or payable under subparagraphs 1. to 6. of paragraph (a)1.
6 to 6. of this subsection to extend the period of disability;

7 (c) If it is determined that an employee has a radiographic classification of
8 category 1/0, 1/1, or 1/2, and respiratory impairment resulting from exposure
9 to coal dust as evidenced by spirometric test values of less than fifty-five
10 percent (55%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal
11 workers' pneumoconiosis and respiratory impairment evidenced by
12 spirometric test values of fifty-five percent (55%) or more but less than eighty
13 percent (80%) of the predicted normal values, or category 3/2 or 3/3 coal
14 workers' pneumoconiosis and spirometric test values of eighty percent (80%)
15 or more, there shall be an irrebuttable presumption that the employee has a
16 disability rating of fifty percent (50%) resulting from exposure to coal dust,
17 and the employee shall be awarded an income benefit which shall be an
18 amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's
19 average weekly wage but not to exceed seventy-five percent (75%) of the state
20 average weekly wage as determined by KRS 342.740 multiplied by the
21 disability rating of fifty percent (50%). The award shall be payable for a
22 period not to exceed four hundred twenty-five (425) weeks;

23 (d) If it is determined that an employee has a radiographic classification of
24 category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis, based on the latest
25 ILO International Classification of Radiographics, and respiratory impairment
26 as evidenced by spirometric test values of less than fifty-five percent (55%) of
27 the predicted normal values or category 3/2 or 3/3 pneumoconiosis and

1 respiratory impairment evidenced by spirometric test values of fifty-five
2 percent (55%) or more but less than eighty percent (80%) of the predicted
3 normal values, there shall be an irrebuttable presumption that the employee
4 has a seventy-five percent (75%) disability rating resulting from exposure to
5 coal dust and the employee shall be awarded income benefits which shall be
6 equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average
7 weekly wage but not to exceed seventy-five percent (75%) of the state average
8 weekly wage as determined by KRS 342.740 multiplied by the disability
9 rating of seventy-five percent (75%). The award shall be payable for a period
10 not to exceed five hundred twenty (520) weeks. Income benefits awarded
11 under this paragraph shall be payable to the employee during the disability;
12 and

13 (e) If it is determined that an employee has radiographic classification of 3/2 or
14 3/3 occupational pneumoconiosis and respiratory impairment evidenced by
15 spirometric test values of less than fifty-five percent (55%) of the predicted
16 normal values, or complicated pneumoconiosis (large opacities category A, B,
17 or C progressive massive fibrosis), there shall be an irrebuttable presumption
18 that the employee is totally disabled resulting from exposure to coal dust, and
19 the employee shall be awarded income benefits equal to sixty-six and two-
20 thirds percent (66-2/3%) of the employee's average weekly wage but not more
21 than one hundred percent (100%) of the state average weekly wage and not
22 less than twenty percent (20%) of the average weekly wage of the state as
23 determined by KRS 342.740. Income benefits awarded under this paragraph
24 shall be payable to the employee during such disability.

25 (2) The presence of respiratory impairment resulting from exposure to coal dust shall
26 be established by using the largest forced vital capacity (FVC) value or the largest
27 forced expiratory volume in one second (FEV1) value determined from the totality

1 of all such spirometric testing performed in compliance with accepted medical
2 standards.

3 (3) When valid spirometric tests are not provided and a physician certifies to the
4 administrative law judge that spirometric testing is not medically indicated because
5 of the permanent physical condition of the employee, the administrative law judge
6 shall make his or her decision on the basis of evidence admitted which establishes
7 the existence of a diagnosis of occupational pneumoconiosis and respiratory
8 impairment due to the occupational pneumoconiosis. The evidence submitted by the
9 employee shall include one (1) or more arterial blood gas studies performed in
10 accordance with accepted medical standards. Income benefits shall not be awarded
11 in the absence of valid spirometric tests if the claimant's PO₂ arterial blood gas
12 value is equal to or higher than one (1) standard deviation from the normal value
13 obtained by the formula $(103.5 - 0.42X)$, where X equals the claimant's age at the
14 time of the arterial blood gas study.

15 (4) Upon request, the commissioner shall refer an employee who has been awarded
16 retraining incentive benefits under subsection (1)(a) of this section to the Office of
17 Vocational Rehabilitation for evaluation and assessment of the training, education,
18 or other services necessary to prepare the employee for a trade, occupation, or
19 profession that will return the employee to remunerative employment, or services
20 necessary and appropriate to prepare and enable the employee to successfully
21 complete a bona fide training or education program approved by the commissioner.
22 The commissioner shall contract with the Office of Vocational Rehabilitation to
23 provide vocational rehabilitation or education services commensurate with the skill
24 levels and abilities of the employee. Services provided under this subsection shall
25 be funded by the coal workers' pneumoconiosis fund, KRS 342. 1242
26 notwithstanding, for claims filed on or before June 30, 2017, and by the employer
27 for claims filed after June 30, 2017.

- 1 (5) The commissioner shall promulgate administrative regulations sufficient to
2 effectuate the provisions relating to retraining incentive benefits provided under
3 subsection (1)(a) of this section. The administrative regulations shall:
- 4 (a) Create an online portal through which employees shall select a facility or
5 institution to provide their retraining. This portal shall list bona fide training
6 or education programs. These programs shall include postsecondary programs
7 registered with the Higher Education Assistance Authority, and will qualify
8 the employee for a trade, occupation, or profession. The programs listed shall
9 be capable of completion within the period benefits are payable under
10 subsection (1)(a) of this section;
- 11 (b) Establish requirements for approval and certification of a bona fide training or
12 education program;
- 13 (c) Provide that funds paid to the training or education program by the employer
14 as required under subsection (1)(a)4. of this section shall be applied only to
15 instruction, tuition, material costs, and any fees necessary for the completion
16 of the program;
- 17 (d) Establish requirements for successful participation in and completion of an
18 approved and certified bona fide training or education program, and eligibility
19 standards that must be satisfied to receive sums to be paid by the employer
20 pursuant to subsection (1)(a)6. of this section; and
- 21 (e) Establish attendance, performance and progress standards, and reporting
22 requirements in consultation with the Office of Adult Education within the
23 Department of Workforce Investment in the Education and Workforce
24 Development Cabinet~~[Kentucky Adult Education Program within the Council~~
25 ~~on Postsecondary Education]~~ as conditions that must be satisfied to receive
26 retraining incentive income benefits pursuant to subsection (1)(a)3. of this
27 section.

1 (6) In no event shall income benefits awarded under this section be stacked or added to
2 income benefits awarded under KRS 342.730 to extend the period of disability and
3 in no event shall income or retraining incentive benefits be paid to the employee
4 while the employee is working in the mining industry in the severance or processing
5 of coal as defined in KRS 342.0011(23)(a).

6 ➔Section 74. KRS 439.179 is amended to read as follows:

7 (1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or
8 forfeiture, or contempt of court, may be granted the privilege of leaving the jail
9 during necessary and reasonable hours for any of the following purposes:

10 (a) Seeking employment; or

11 (b) Working at his employment; or

12 (c) Conducting his own business or other self-employment occupation including,
13 in the case of a woman, housekeeping and attending the needs of her family;
14 or

15 (d) Attendance at an educational institution; or

16 (e) Medical treatment.

17 (2) Unless the privilege is expressly granted by the court, the prisoner shall be
18 sentenced to ordinary confinement. The prisoner may petition the sentencing court
19 for the privilege at the time of sentence or thereafter, and, in the discretion of the
20 sentencing court, may renew his petition. The sentencing court may withdraw the
21 privilege at any time by order entered with or without notice. The jailer shall advise
22 the court in establishing criteria in determining a prisoner's eligibility for work
23 release.

24 (3) The jailer shall notify the ~~Office for Employment and Training,~~ Department *of*
25 ~~for~~ Workforce Investment, which shall endeavor to secure employment for
26 unemployed prisoners under this section. If a prisoner is employed for wages or
27 salary, they shall, by wage assignment, be turned over to the District Court which

1 shall deposit the same in a trust checking account and shall keep a ledger showing
2 the status of the account of each prisoner. The wages or salary shall not be subject
3 to garnishment of either the employer or the District Court during the prisoner's
4 term, and shall be disbursed only as provided in this section. For tax purposes they
5 shall be the income of the prisoner.

6 (4) Every prisoner gainfully employed shall be liable for the cost of his board in the jail,
7 for an amount up to twenty-five percent (25%) of the prisoner's gross daily wages,
8 not to exceed forty dollars (\$40) per day, but not less than twelve dollars (\$12) per
9 day, established by the fiscal court of a county or the urban-county council if an
10 urban-county government. If he defaults, his privilege under this section shall be
11 automatically forfeited. All moneys shall be paid directly to the jailer and paid to
12 the county treasury for use on the jail as provided in KRS 441.206. The fiscal court
13 of a county or the urban-county council if an urban-county government may, by
14 ordinance, provide that the county furnish or pay for the transportation of prisoners
15 employed under this section to and from the place of employment and require that
16 the costs be repaid by the prisoner.

17 (5) The sentencing court may order the defendant's employer to deduct from the
18 defendant's wages or salary payments for the following purposes:

- 19 (a) The board of the prisoner and transportation costs incurred by the county;
20 (b) Support of the prisoner's dependents, if any;
21 (c) Payment, either in full or ratably, of the prisoner's obligations acknowledged
22 by him in writing or which have been reduced to judgment; and
23 (d) The balance, if any, to the prisoner upon his discharge.

24 (6) The sentencing court shall not direct that any payment authorized under this section
25 be paid through the circuit clerk.

26 (7) The Department of Corrections shall, at the request of the District Judge, investigate
27 and report on the amount necessary for the support of the prisoner's dependents, and

1 periodically review the prisoner's progress while on leave from the jail and report its
2 findings to the District Judge.

3 (8) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail
4 as provided in subsection (1) for any breach of discipline or other violation of jail
5 regulations for a period not to exceed five (5) days.

6 (9) In counties containing an urban-county form of government, the duties,
7 responsibilities, and obligations vested herein in the Department of Corrections
8 shall be performed by the adult misdemeanor probation and work release agency of
9 the urban-county government.

10 ➔Section 75. KRS 533.210 is amended to read as follows:

11 (1) The program described in KRS 533.200 shall be administered by the *Office of*
12 *Adult Education within the Department of Workforce Investment in the*
13 *Education and Workforce Development Cabinet*~~[Kentucky Adult Education~~
14 ~~Program within the Council on Postsecondary Education]~~, which shall promulgate
15 administrative regulations, pursuant to KRS Chapter 13A, relative to the conduct of
16 the program, including but not limited to the costs of participation in the program
17 by persons sentenced to the program.

18 (2) The *Office of Adult Education*~~[Kentucky Adult Education Program]~~ shall license
19 qualified persons or organizations to conduct the program described in KRS
20 533.200 on behalf of the agency. Qualifications, the manner of licensing, and all
21 other matters shall be set by administrative regulation.

22 ➔Section 76. All personnel, records, files, equipment, and funds of the Kentucky
23 Adult Education Program within the Council for Postsecondary Education shall be
24 transferred to the Office of Adult Education within the Department of Workforce
25 Investment in the Education and Workforce Development Cabinet, except funds related
26 to the federal Adult Education and Family Literacy Act (AEFLA) program shall not be
27 transferred and the Council on Postsecondary Education shall remain the eligible agency

1 with authority to draw down AEFLA funds until the United States Department of
2 Education approves the transfer of the AEFLA grant from the Council on Postsecondary
3 Education to the Education and Workforce Development Cabinet and issues an AEFLA
4 grant award notice to the Education and Workforce Development Cabinet.

5 ➔Section 77. Notwithstanding KRS 12.028(5):

6 (1) The General Assembly confirms in part Executive Order 2018-597, dated July
7 23, 2018, to the extent that it is not otherwise confirmed or superseded by this Act. The
8 General Assembly confirms the entirety of that order, except for Part II, which it does not
9 confirm.

10 (2) The General Assembly confirms Executive Order 2018-779, dated September
11 21, 2018, to the extent that it is not otherwise confirmed or superseded by this Act.

12 (3) The General Assembly confirms Executive Order 2019-026, dated January 7,
13 2019, to the extent that it is not otherwise confirmed or superseded by this Act.

14 (4) The General Assembly confirms Executive Order 2019-027, dated January 7,
15 2019, to the extent not otherwise confirmed or superseded by this Act.