

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 (b) Office of Legal and Legislative Services.
- 26 1. Client Assistance Program.
- 27 (c) Office of Communication.

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

1 e.— ~~Division of Unemployment Insurance~~].

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

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

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

5 **6. Unemployment Insurance Commission.**

6 (m) Foundation for Workforce Development.

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

8 ~~(o)~~ Kentucky Workforce Investment Board.

9 ~~(p)~~ ~~Statewide Council for Vocational Rehabilitation.~~

10 ~~(q)~~ ~~Unemployment Insurance Commission.~~

11 ~~(r)~~ Education Professional Standards Board.

12 1. Division of Educator Preparation.

13 2. Division of Certification.

14 3. Division of Professional Learning and Assessment.

15 4. Division of Legal Services.

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

17 ~~(t)~~ Kentucky Educational Television.

18 ~~(u)~~ Kentucky Environmental Education Council.

19 (3) Energy and Environment Cabinet:

20 (a) Office of the Secretary.

21 1. Office of Legislative and Intergovernmental Affairs.

22 2. Office of Legal Services.

23 a. Legal Division I.

24 b. Legal Division II.

25 3. Office of Administrative Hearings.

26 4. Office of Communication.

27 5. Mine Safety Review Commission.

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

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

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

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

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

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

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

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

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

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

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

4 III. Other departments headed by appointed officers:

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

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

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

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

- 1 (10) Office of Minority Empowerment;
- 2 (a) The Martin Luther King Commission;
- 3 (11) Office of Homeland Security; and
- 4 (12) Kentucky Communications Network Authority.

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

- 6 (1) An entity administratively dissolved under KRS 14A.7-020 or predecessor law may
7 apply to the Secretary of State for reinstatement at any time after the effective date
8 of dissolution. The application shall:
 - 9 (a) Recite the name of the entity and the effective date of its administrative
10 dissolution;
 - 11 (b) State that the ground or grounds for dissolution either did not exist or have
12 been eliminated;
 - 13 (c) State that the entity's name satisfies the requirements of KRS 14A.3-010;
 - 14 (d) Contain a certificate from the Department of Revenue reciting that all taxes
15 owed by the entity have been paid;
 - 16 (e) Contain a representation that the entity has taken no steps to wind up and
17 liquidate its business and affairs and notify claimants;
 - 18 (f) If a business corporation, contain a certificate from the Office~~[Division]~~ of
19 Unemployment Insurance in the Department for Workforce Investment
20 reciting that all employer contributions, interest, penalties, and service
21 capacity upgrade fund assessments have been paid; and
 - 22 (g) Be accompanied by the reinstatement penalty and the current fee for filing
23 each delinquent annual report as provided for in this chapter.
- 24 (2) If the Secretary of State determines that the application satisfies the requirement of
25 subsection (1) of this section, he or she shall cancel the certificate of dissolution and
26 prepare a certificate of existence that recites his or her determination and the
27 effective date of reinstatement, file the original of the certificate, and notify the

1 entity of that filing, which notification may be accomplished electronically.

2 (3) When the reinstatement is effective:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (b) Monitor, review, and evaluate, not less often than annually, the
27 implementation and effectiveness of the state plan in meeting the plan's

1 objectives;

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

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

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

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

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

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

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

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

27 (b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to

1 each coal-producing county on the basis of the following factors, which shall
2 be computed for the current and four (4) preceding years, and which shall be
3 equally weighted:

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

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

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

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

25 2. The estimate of surplus labor for each county and for the
26 Commonwealth shall be made using the best practical method available
27 at the time the estimates are made. In determining the method to be

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

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

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

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

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

27 (2) The Finance and Administration Cabinet shall make a list of commodities and

1 services provided by these agencies and organizations available to all governmental
2 bodies and political subdivisions. The list shall identify in detail the commodity or
3 service the agency or organization may supply and the price.

4 (3) The Finance and Administration Cabinet shall annually determine the current price
5 range for the commodities and services offered from its experience in purchasing
6 these commodities or services on the open market. The prices quoted by these
7 agencies or organizations shall not exceed the current price range.

8 (4) The **Office of Vocational Rehabilitation**~~[Office for the Blind]~~ within the Education
9 and Workforce Development Cabinet and qualified agencies for individuals with
10 severe disabilities shall annually cause to be made available to the Finance and
11 Administration Cabinet, lists of the products or services available.

12 (5) If two (2) or more of the agencies or qualified nonprofit organizations wish to
13 supply identical commodities or services, the Finance and Administration Cabinet
14 shall conduct negotiations with the parties to determine which shall be awarded the
15 contract. The decision of the Finance and Administration Cabinet shall be based
16 upon quality of the commodity or service and the ability of the respective agencies
17 to supply the commodity or service within the requested delivery time.

18 ➔Section 7. KRS 132.193 is amended to read as follows:

19 (1) Leased personal property exempt from taxation when held by a natural person,
20 association, or corporation in connection with a business conducted for profit, shall
21 be subject to taxation in the same amount and to the same extent as though the
22 lessee were the owner of the property, except personal property used in vending
23 stands operated by blind persons under the auspices of the **Division of Kentucky**
24 **Business Enterprise**~~[Office for the Blind]~~.

25 (2) Taxes shall be assessed to lessees of exempt personal property and collected in the
26 same manner as taxes assessed to owners of other personal property, except that
27 taxes due under this section shall not become a lien against the personal property.

1 When due, such taxes shall constitute a debt due from the lessee to the state, county,
2 school district, special district, city, urban-county government, charter county,
3 consolidated local government, or unified local government for which the taxes
4 were assessed and if unpaid shall be recoverable by the state as provided in KRS
5 Chapter 134.

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

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

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

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

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

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

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

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

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

27 (3) Taxes shall be assessed to lessees of exempt real or personal property and collected

1 in the same manner as taxes assessed to owners of other real or personal property,
2 except that taxes due under this section shall not become a lien against the property.
3 When due, such taxes shall constitute a debt due from the lessee to the state, county,
4 school district, special district, or urban-county 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 9. KRS 141.0205 is amended to read as follows:

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

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

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

- 1 permitted under Section 39 of this Act~~[KRS 164.0062]~~;
- 2 (l) The voluntary environmental remediation credit permitted by KRS 141.418;
- 3 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 4 (n) The clean coal incentive credit permitted by KRS 141.428;
- 5 (o) The ethanol credit permitted by KRS 141.4242;
- 6 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 7 (q) The energy efficiency credits permitted by KRS 141.436;
- 8 (r) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 9 (s) The Endow Kentucky credit permitted by KRS 141.438;
- 10 (t) The New Markets Development Program credit permitted by KRS 141.434;
- 11 (u) The distilled spirits credit permitted by KRS 141.389;
- 12 (v) The angel investor credit permitted by KRS 141.396;
- 13 (w) The film industry credit permitted by KRS 141.383 for applications approved
- 14 on or after April 27, 2018; and
- 15 (x) The inventory credit permitted by KRS 141.408.
- 16 (2) After the application of the nonrefundable credits in subsection (1) of this section,
- 17 the nonrefundable personal tax credits against the tax imposed by KRS 141.020
- 18 shall be taken in the following order:
- 19 (a) The individual credits permitted by KRS 141.020(3);
- 20 (b) The credit permitted by KRS 141.066;
- 21 (c) The tuition credit permitted by KRS 141.069; and
- 22 (d) The household and dependent care credit permitted by KRS 141.067.
- 23 (3) After the application of the nonrefundable credits provided for in subsection (2) of
- 24 this section, the refundable credits against the tax imposed by KRS 141.020 shall be
- 25 taken in the following order:
- 26 (a) The individual withholding tax credit permitted by KRS 141.350;
- 27 (b) The individual estimated tax payment credit permitted by KRS 141.305;

- 1 (c) The certified rehabilitation credit permitted by KRS 171.3961 and
2 171.397(1)(b); and
- 3 (d) The film industry tax credit permitted by KRS 141.383 for applications
4 approved prior to April 27, 2018.
- 5 (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the
6 tax imposed by KRS 141.040.
- 7 (5) The following nonrefundable credits shall be applied against the sum of the tax
8 imposed by KRS 141.040 after subtracting the credit provided for in subsection (4)
9 of this section, and the tax imposed by KRS 141.0401 in the following order:
- 10 (a) The economic development credits computed under KRS 141.347, 141.381,
11 141.384, 141.400, 141.401, 141.403, 141.407, 141.415, 154.12-207, and
12 154.12-2088;
- 13 (b) The qualified farming operation credit permitted by KRS 141.412;
- 14 (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- 15 (d) The health insurance credit permitted by KRS 141.062;
- 16 (e) The unemployment credit permitted by KRS 141.065;
- 17 (f) The recycling or composting equipment credit permitted by KRS 141.390;
- 18 (g) The coal conversion credit permitted by KRS 141.041;
- 19 (h) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods
20 ending prior to January 1, 2008;
- 21 (i) The tax credit for cash contributions to investment funds permitted by KRS
22 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS
23 154.20-258;
- 24 (j) The research facilities credit permitted by KRS 141.395;
- 25 (k) The employer High School Equivalency Diploma program incentive credit
26 permitted by Section 39 of this Act ~~[KRS 164.0062]~~;
- 27 (l) The voluntary environmental remediation credit permitted by KRS 141.418;

- 1 (m) The biodiesel and renewable diesel credit permitted by KRS 141.423;
- 2 (n) The clean coal incentive credit permitted by KRS 141.428;
- 3 (o) The ethanol credit permitted by KRS 141.4242;
- 4 (p) The cellulosic ethanol credit permitted by KRS 141.4244;
- 5 (q) The energy efficiency credits permitted by KRS 141.436;
- 6 (r) The ENERGY STAR home or ENERGY STAR manufactured home credit
7 permitted by KRS 141.437;
- 8 (s) The railroad maintenance and improvement credit permitted by KRS 141.385;
- 9 (t) The railroad expansion credit permitted by KRS 141.386;
- 10 (u) The Endow Kentucky credit permitted by KRS 141.438;
- 11 (v) The New Markets Development Program credit permitted by KRS 141.434;
- 12 (w) The distilled spirits credit permitted by KRS 141.389;
- 13 (x) The film industry credit permitted by KRS 141.383 for applications approved
14 on or after April 27, 2018; and
- 15 (y) The inventory credit permitted by KRS 141.408.
- 16 (6) After the application of the nonrefundable credits in subsection (5) of this section,
17 the refundable credits shall be taken in the following order:
- 18 (a) The corporation estimated tax payment credit permitted by KRS 141.044;
- 19 (b) The certified rehabilitation credit permitted by KRS 171.3961 and
20 171.397(1)(b); and
- 21 (c) The film industry tax credit permitted by KRS 141.383 for applications
22 approved prior to April 27, 2018.
- 23 ➔Section 10. KRS 141.065 is amended to read as follows:
- 24 (1) For the purposes of this section, "code" or "Internal Revenue Code" means the
25 Internal Revenue Code in effect as of December 31, 1981.
- 26 (2) There shall be allowed as a credit for any taxpayer against the tax imposed by KRS
27 141.020 or 141.040 and 141.0401 for any taxable year, with the ordering of the

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

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

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

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

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

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

26 (4) For purposes of this section, all employees of all corporations which are members
27 of the same controlled group of corporations shall be treated as employed by a

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

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

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

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

23 (8) In the case of an estate or trust, the amount of the credit determined under this
24 section for any taxable year shall be apportioned between the estate or trust and the
25 beneficiaries on the basis of income of the estate or trust allocable to each, and any
26 beneficiary to whom any amount has been apportioned under this subsection shall
27 be allowed, subject to code Section 53, a credit under subsection (2) of this section

1 for that amount.

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

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

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

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

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

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

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

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

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

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

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

1 ~~6.(b)~~ The Unemployment Insurance Commission established by KRS
2 341.110.

3 (3) The executive officer of the cabinet shall be the secretary of the Education and
4 Workforce Development Cabinet. The secretary shall be appointed by the Governor
5 pursuant to KRS 12.255 and shall serve at the pleasure of the Governor. The
6 secretary shall have general supervision and direction over all activities and
7 functions of the cabinet and its employees and shall be responsible for carrying out
8 the programs and policies of the cabinet. The secretary shall be the chief executive
9 officer of the cabinet and shall have authority to enter into contracts, subject to the
10 approval of the secretary of the Finance and Administration Cabinet, when the
11 contracts are deemed necessary to implement and carry out the programs of the
12 cabinet. The secretary shall have the authority to require coordination and
13 nonduplication of services provided under the Federal Workforce Investment Act of
14 1998, 20 U.S.C. secs. 9201 et seq. The secretary shall have the authority to mandate
15 fiscal responsibility dispute resolution procedures among state organizational units
16 for services provided under the Federal Workforce Investment Act of 1998, 20
17 U.S.C. secs. 9201 et seq.

18 (4) The secretary of the Education and Workforce Development Cabinet and the
19 secretary's designated representatives, in the discharge of the duties of the secretary,
20 may administer oaths and affirmations, take depositions, certify official acts, and
21 issue subpoenas to compel the attendance of witnesses and production of books,
22 papers, correspondence, memoranda, and other records considered necessary and
23 relevant as evidence at hearings held in connection with the administration of the
24 cabinet.

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

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

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

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

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

23 (3) The office shall be the sole state agency for the purpose of developing and
24 approving state plans required by state or federal laws and regulations as
25 prerequisites to receiving federal funds for vocational rehabilitation.

26 (4) The chief executive officer of the office shall be the executive director of the Office
27 of Vocational Rehabilitation. The executive director shall be appointed by the

1 secretary of the Education and Workforce Development Cabinet under the
 2 provisions of KRS 12.050. The executive director shall have experience in
 3 vocational rehabilitation and supervision and shall have general supervision and
 4 direction over all functions of the office and its employees, and shall be responsible
 5 for carrying out the programs and policies of the office.

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

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

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

16 (1) The Statewide Council for Vocational Rehabilitation is hereby created within the
 17 Office of Vocational Rehabilitation to accomplish the purposes and functions
 18 enumerated in 29 U.S.C. sec. 701 et seq~~[725 (Title I, Part A, Section 105 of the~~
 19 ~~Rehabilitation Act Amendments of 1998)]~~. Members of the council shall be
 20 appointed by the Governor pursuant to the guidelines in this section. When
 21 appointing members of the council, the Governor shall consider, to the greatest
 22 extent practicable, the extent to which minority populations are represented on
 23 the council~~[from recommendations submitted by the Office of Vocational~~
 24 ~~Rehabilitation consistent with the federal mandate to include a majority of~~
 25 ~~individuals with disabilities not employed by the office, as well as representatives of~~
 26 ~~specified organizations, service providers, and advocacy groups. The compensation,~~
 27 ~~qualifications, and terms of service of the council shall conform to the federal law].~~

- 1 (2) *The Statewide Council for Vocational Rehabilitation shall consist of the*
2 *following members which shall serve for the following staggered initial terms but*
3 *their successors shall serve for a term of three (3) years:*
- 4 *(a) One (1) representative of the Statewide Independent Living Council, who*
5 *shall be the chair or other designee of the Statewide Independent Living*
6 *Council and who shall serve an initial term of two (2) years;*
- 7 *(b) One (1) representative of a parent training and information center*
8 *established pursuant to Section 682(a) of the Individuals with Disabilities*
9 *Education Act who shall serve an initial term of one (1) year;*
- 10 *(c) One (1) representative of the Client Assistance Program established under*
11 *34 C.F.R. pt. 370, who shall be designated by the employee of the Education*
12 *and Workforce Development Cabinet responsible for overseeing the Client*
13 *Assistance Program and who shall serve an initial term of one (1) year;*
- 14 *(d) One (1) representative of community rehabilitation program service*
15 *providers who shall serve an initial term of three (3) years;*
- 16 *(e) Four (4) representatives of business, industry, and labor who shall each*
17 *serve an initial term of three (3) years;*
- 18 *(f) One (1) representative of a disability group that includes individuals with*
19 *physical, cognitive, sensory, and mental disabilities who shall serve an*
20 *initial term of two (2) years;*
- 21 *(g) One (1) representative of a disability group that includes individuals with*
22 *disabilities who have difficulty representing themselves or are unable due to*
23 *their disabilities to represent themselves who shall serve an initial term of*
24 *two (2) years;*
- 25 *(h) One (1) current or former applicant for or recipient of vocational*
26 *rehabilitation services who shall serve for an initial term of one (1) year;*
- 27 *(i) One (1) representative of the state educational agency responsible for the*

1 public education of students with disabilities who are eligible to receive
 2 services under Part B of the Individuals with Disabilities Education Act
 3 who shall serve for an initial term of one (1) year;

4 (j) One (1) representative of the Kentucky Workforce Investment Board who
 5 shall serve an initial term of one (1) year;

6 (k) One (1) representative from the Kentucky Council for the Blind who shall
 7 serve an initial term of three (3) years;

8 (l) One (1) representative from the National Federation for the Blind from
 9 Kentucky who shall serve an initial term of three (3) years;

10 (m) One (1) representative from the Bluegrass Council of the Blind who shall
 11 serve an initial term of three (3) years;

12 (n) One (1) representative from the State Committee of Blind Vendors who
 13 shall serve an initial term of one (1) year;

14 (o) One (1) qualified vocational rehabilitation counselor with knowledge of and
 15 experience with vocational rehabilitation programs who serves as an ex
 16 officio, nonvoting member of the council if employed by the designated state
 17 agency and who shall serve an initial term of two (2) years; and

18 (p) The executive director of the Office of Vocational Rehabilitation as an ex
 19 officio, nonvoting member of the council.

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

24 ~~(b) The Governor may delegate the authority to fill a vacancy to the remaining~~
 25 ~~voting members of the council.]~~

26 (3) The members of the council shall not be compensated for their service on the
 27 council. Council members shall be reimbursed for their necessary expenses

1 pursuant to KRS 12.029.~~[Each member of the Statewide Council for Vocational~~
2 ~~Rehabilitation may receive a per diem of one hundred dollars (\$100), not to exceed~~
3 ~~six hundred dollars (\$600) annually, for each regular or special meeting attended if~~
4 ~~the member is not employed or must forfeit wages from other employment. Each~~
5 ~~member may have travel expenses approved at the established state rate and~~
6 ~~expenses reimbursed at the established state agency rate for services such as~~
7 ~~personal assistance, child care, and drivers for attendance at council meetings, and~~
8 ~~in the performance of duties authorized by the Statewide Council for Vocational~~
9 ~~Rehabilitation. The per diem and expenses shall be paid out of the federal funds~~
10 ~~appropriated under Title I, Part A, of the Rehabilitation Act Amendments of 1998,~~
11 ~~Pub. L. 105-220.]~~

12 (4) Including the initial appointment, and with the exception of the individuals set
13 out in paragraphs (c) and (p) of subsection (2) of this section, members shall
14 serve no more than two (2) successive terms. A member appointed to fill a
15 vacancy occurring prior to the end of the term for which the predecessor was
16 appointed shall be appointed for the remainder of the predecessor's term.

17 (5) A chair shall be selected by the members of the council from among the voting
18 members of the council, subject to the veto power of the Governor.

19 (6) No member of the council shall cast a vote on any matter that would provide
20 direct financial benefit to the member or the member's organization or otherwise
21 give the appearance of a conflict of interest under state law.

22 (7) A majority of the members of the council shall be individuals with disabilities
23 who meet the requirements of 34 C.F.R. sec. 361.5(c)(28) and who are not
24 employed by the designated state unit.

25 (8) The council shall convene at least four (4) meetings a year in locations
26 determined by the council to be necessary to conduct council business. The
27 meetings shall be publicly announced, open, and accessible to the general public,

1 including individuals with disabilities, unless there is a valid reason for an
 2 executive session under the Open Meetings Act, KRS 61.805 to 61850.

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

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

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

1 ~~Workforce Investment, and shall fulfill only the responsibilities delegated by the~~
 2 ~~commissioner.]~~

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

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

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

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

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

25 (b) Notwithstanding any other state statute or administrative regulation to the
 26 contrary, any information concerning individual clients or applicants in the
 27 possession of the *Department of Workforce Investment*~~[Office of~~

1 ~~Employment and Training~~] may be shared with any authorized representative
2 of any other state or local governmental agency, if the agency has a direct,
3 tangible, and legitimate interest in the individual. The agency receiving the
4 information shall assure the confidentiality of all information received. The
5 *Department of Workforce Investment*~~[Office of Employment and Training]~~
6 may share information concerning a client or applicant with any private or
7 quasi-private agency if:

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

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

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

1 chairman who shall present it to the board for final approval. Upon approval, the
2 board shall submit the proposed budget to the Governor's Office for Policy and
3 Management.

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

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

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

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

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

22 (2) "Approved costs" means:

23 (a) Fees or salaries required to be paid to instructors who are employees of the
24 approved company, instructors who are full-time, part-time, or adjunct
25 instructors with an educational institution, and instructors who are consultants
26 on contract with an approved company in connection with an occupational
27 upgrade training program or skills upgrade training program sponsored by an

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

1 training investment credits by the qualified company;

2 (c) Who is a Kentucky resident, as that term is defined in KRS 141.010; and

3 (d) Who receives a base hourly wage which is one hundred fifty percent (150%)
4 of the federal minimum wage plus employee benefits equal to at least fifteen
5 percent (15%) of the applicable base hourly wage, if the qualified company is
6 located in a county of Kentucky which has had an average countywide rate of
7 unemployment of fifteen percent (15%) or greater in the most recent twelve
8 (12) consecutive months for which unemployment figures are available, on the
9 basis of the final unemployment figures calculated by the ~~{Office of~~
10 ~~Employment and Training within the}~~ Department of Workforce Investment in
11 the Education and Workforce Development Cabinet.

12 For purposes of this subsection, a "full-time employee" means an employee who has
13 been employed by the qualified company for a minimum of thirty-five (35) hours
14 per week for more than two hundred fifty (250) work days during the most recently
15 ended calendar year and is subject to the tax imposed by KRS 141.020;

16 (7) "Occupational upgrade training" means employee training sponsored by a qualified
17 company that is designed to qualify the employee for a promotional opportunity
18 with the qualified company;

19 (8) "Preliminarily approved company" means a qualified company seeking to sponsor
20 an occupational upgrade training program or skills upgrade training program, which
21 has received preliminarily approval from the authority under KRS 154.12-2088 to
22 receive a certain maximum amount of skills training investment credits;

23 (9) "Qualified company" means any person, corporation, limited liability company,
24 partnership, limited partnership, sole proprietorship, firm, enterprise, franchise,
25 association, organization, holding company, joint stock company, professional
26 service corporation, or any other legal entity through which business is conducted
27 that has been actively engaged in any of the following qualified activities within the

1 Commonwealth for not less than three (3) consecutive years: manufacturing,
2 including the processing, assembling, production, or warehousing of any property;
3 processing of agricultural and forestry products; telecommunications; health care;
4 product research and engineering; tool and die and machine technology; mining;
5 tourism and operation of facilities to be used in the entertainment, recreation, and
6 convention industry; and transportation in support of manufacturing.

7 Notwithstanding the provisions of this subsection, any company whose primary
8 purpose is the sale of goods at retail shall not constitute a qualified company;

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

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

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

22 (1) On or before October 1, 1992, and on or before the first day of every third month
23 thereafter, the authority shall provide a written project status report to the
24 Legislative Research Commission, and the authority shall be compelled to send a
25 representative to testify on the project status report and the authority shall provide
26 additional information on any projects upon request by the Legislative Research
27 Commission. The written project status report shall include but is not limited to:

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

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

- 26 (1) Industrial entities, agricultural business entities, business enterprises, or private
27 sector firms which are members of a business network within the meaning of KRS

1 154.1-010 and businesses that compose the secondary wood products industry as
2 defined in KRS 154.47-005(8), shall be given priority consideration under state
3 economic development loan, grant, and incentive programs administered by the
4 Kentucky Economic Development Finance Authority.

5 (2) Notwithstanding the provisions of subsection (1) of this section, highest priority
6 consideration under state economic development loan, grant, and incentive
7 programs administered by the authority shall be given to those projects that are
8 located in counties of Kentucky which have had an average countywide rate of
9 unemployment of fifteen percent (15%) or greater in the most recent twelve (12)
10 consecutive months for which unemployment figures are available, on the basis of
11 the final unemployment figures calculated by the ~~{Office of Employment and~~
12 ~~Training within the }~~Department of Workforce Investment in the Education and
13 Workforce Development Cabinet.

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

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

17 (1) "Activation date" means a date selected by an approved company in the tax
18 incentive agreement at any time within a two (2) year period after the date of final
19 approval of the tax incentive agreement by the authority;

20 (2) "Affiliate" means the following:

21 (a) Members of a family, including only brothers and sisters of the whole or half
22 blood, spouse, ancestors, and lineal descendants of an individual;

23 (b) An individual, and a corporation more than fifty percent (50%) in value of the
24 outstanding stock of which is owned, directly or indirectly, by or for that
25 individual;

26 (c) An individual, and a limited liability company of which more than fifty
27 percent (50%) of the capital interest or profits are owned or controlled,

- 1 directly or indirectly, by or for that individual;
- 2 (d) Two (2) corporations which are members of the same controlled group, which
3 includes and is limited to:
- 4 1. One (1) or more chains of corporations connected through stock
5 ownership with a common parent corporation, if:
- 6 a. Stock possessing more than fifty percent (50%) of the total
7 combined voting power of all classes of stock entitled to vote or
8 more than fifty percent (50%) of the total value of shares of all
9 classes of stock of each of the corporations, except the common
10 parent corporation, is owned by one (1) or more of the other
11 corporations; and
- 12 b. The common parent corporation owns stock possessing more than
13 fifty percent (50%) of the total combined voting power of all
14 classes of stock entitled to vote or more than fifty percent (50%) of
15 the total value of shares of all classes of stock of at least one (1) of
16 the other corporations, excluding, in computing the voting power
17 or value, stock owned directly by the other corporations; or
- 18 2. Two (2) or more corporations, if five (5) or fewer persons who are
19 individuals, estates, or trusts own stock possessing more than fifty
20 percent (50%) of the total combined voting power of all classes of stock
21 entitled to vote or more than fifty percent (50%) of the total value of
22 shares of all classes of stock of each corporation, taking into account the
23 stock ownership of each person only to the extent the stock ownership is
24 identical with respect to each corporation;
- 25 (e) A grantor and a fiduciary of any trust;
- 26 (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a
27 grantor of both trusts;

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

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

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

- 1 3. The acquisition or present ownership of improvements or facilities, as
2 described in paragraph (b) of this subsection, on land which is possessed
3 or is to be possessed by the approved manufacturing or agribusiness
4 company pursuant to a ground lease having a term of sixty (60) years or
5 more;
- 6 4. The new construction of an electric generation facility; and
- 7 5. The legal possession of facilities by an approved company or its affiliate
8 pursuant to a lease having a term equal to or greater than fifteen (15)
9 years with a third-party entity, negotiated at arm's length, if the facility
10 will be used by the approved company to conduct the approved activity
11 for which the inducement has been granted. An economic development
12 project qualifying under this subparagraph shall only be eligible for
13 credits against equipment and costs related to installation of equipment
14 and for purposes of the tax credits provided under the provisions of KRS
15 154.22-010 to 154.22-080 only to the extent of twenty thousand dollars
16 (\$20,000) per job created by and maintained at the economic
17 development project. Notwithstanding KRS 154.22-050(8) and 154.22-
18 060, an economic development project qualifying under this
19 subparagraph shall be eligible only for the aggregate assessments
20 pursuant to KRS 154.22-070 withheld by the approved company each
21 year and shall not be eligible for credit against Kentucky income tax and
22 limited liability entity tax.
- 23 (b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real
24 estate shall only include fee ownership of real estate and possession of real
25 estate pursuant to a capital lease as determined in accordance with Statement
26 of Financial Accounting Standards No. 13, Accounting for Leases, issued by
27 the Financial Accounting Standards Board, November 1976. With respect to

1 paragraph (a)1., 2., and 3. of this subsection or this paragraph, the
2 construction, installation, equipping, and rehabilitation of improvements,
3 including fixtures and equipment, and facilities necessary or desirable for
4 improvement of the real estate, including surveys; site tests and inspections;
5 subsurface site work; excavation; removal of structures, roadways, cemeteries,
6 and other surface obstructions; filling, grading, and provision of drainage,
7 storm water retention, installation of utilities such as water, sewer, sewage
8 treatment, gas, electricity, communications, and similar facilities; off-site
9 construction of utility extensions to the boundaries of the real estate; and the
10 acquisition, installation, equipping, and rehabilitation of manufacturing
11 facilities on the real estate, for use and occupancy by the approved company or
12 its affiliates for manufacturing purposes, electric generation, or for
13 agribusiness purposes. Pursuant to paragraph (a)3. and 5. of this subsection,
14 an economic development project shall not include lease payments made
15 pursuant to a ground lease for purposes of the tax credits provided under the
16 provisions of KRS 154.22-010 to 154.22-080;

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

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

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

26 (14) "Final approval" means the action taken by the authority authorizing the eligible
27 company to receive inducements under this subchapter;

- 1 (15) "Full-time employee" means a person employed by an approved company for a
2 minimum of thirty-five (35) hours per week and subject to the state income tax
3 imposed by KRS 141.020;
- 4 (16) "Inducements" means the assessment and the tax credits allowed by KRS 154.22-
5 060;
- 6 (17) "Manufacturing" means any activity involving the manufacturing, processing,
7 assembling, or production of any property, including the processing resulting in a
8 change in the conditions of the property and any activity related to it, together with
9 the storage, warehousing, distribution, and related office facilities; however,
10 "manufacturing" shall not include mining, coal or mineral processing, or extraction
11 of minerals;
- 12 (18) "Preliminary approval" means the action taken by the authority conditioning final
13 approval by the authority upon satisfaction by the eligible company of the
14 requirements under this subchapter;
- 15 (19) "Qualified county" means any county certified as such by the authority pursuant to
16 KRS 154.22-010 to 154.22-080;
- 17 (20) "Revenues" shall not be considered state funds;
- 18 (21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);
- 19 (22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS
20 154.22-050, between the authority and an approved company with respect to an
21 economic development project;
- 22 (23) "Kentucky gross receipts" means "Kentucky gross receipts" as defined in KRS
23 141.0401; and
- 24 (24) "Kentucky gross profits" means "Kentucky gross profits" as defined in KRS
25 141.0401.
- 26 ➔Section 20. KRS 154.22-040 is amended to read as follows:
- 27 (1) Each year, the authority shall under its Rural Economic Development Assistance

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

- 13 (a) The average countywide rate of unemployment in the most recent three (3)
14 consecutive calendar years, on the basis of final unemployment figures
15 calculated by the ~~Office of Employment and Training within the~~ Department
16 of Workforce Investment in the Education and Workforce Development
17 Cabinet;
- 18 (b) In each county the percentage of adults twenty-five (25) years of age and older
19 who have attained at least a high school education or equivalent, on the basis
20 of the most recent data available from the United States Department of
21 Commerce, Bureau of the Census; and
- 22 (c) Road quality, as quantified by the access within a county to roads ranked in
23 descending order from best quality to worst quality as follows: two (2) or
24 more interstate highways, one (1) interstate highway, a state four (4) lane
25 parkway, four (4) lane principal arterial access to an interstate highway, state
26 two (2) lane parkway and none of the preceding road types, as certified by the
27 Kentucky Transportation Cabinet to the authority.

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

- 20 (2) The authority shall establish the procedures and standards for the determination and
21 approval of eligible companies and their economic development projects by the
22 promulgation of administrative regulations in accordance with KRS Chapter 13A.
23 The criteria for approval of eligible companies and economic development projects
24 shall include but not be limited to the creditworthiness of eligible companies; the
25 number of new jobs to be provided by an economic development project to
26 residents of the Commonwealth; and the likelihood of the economic success of the
27 economic development project.

- 1 (3) The economic development project shall involve a minimum investment of one
2 hundred thousand dollars (\$100,000) by the eligible company and shall result in the
3 creation by the eligible company, within two (2) years from the date of the final
4 approval authorizing the economic development project, of a minimum of fifteen
5 (15) new full-time jobs at the site of the economic development project for
6 Kentucky residents to be employed by the eligible company and to be held by
7 persons subject to the personal income tax of the Commonwealth. The authority
8 may extend this two (2) year period upon the written application of an eligible
9 company requesting an extension.
- 10 (4) (a) Within six (6) months after the activation date, the approved company shall
11 compensate a minimum of ninety percent (90%) of its full-time employees
12 whose jobs were created with base hourly wages equal to either:
- 13 1. Seventy-five percent (75%) of the average hourly wage for the
14 Commonwealth; or
 - 15 2. Seventy-five percent (75%) of the average hourly wage for the county in
16 which the project is to be undertaken.
- 17 (b) If the base hourly wage calculated in paragraph (a)1. or 2. of this subsection is
18 less than one hundred fifty percent (150%) of the federal minimum wage, then
19 the base hourly wage shall be one hundred fifty percent (150%) of the federal
20 minimum wage. However, for projects receiving preliminary approval of the
21 authority prior to July 1, 2008, the base hourly wage shall be one hundred fifty
22 percent (150%) of the federal minimum wage existing on January 1, 2007. In
23 addition to the applicable base hourly wage calculated above, the eligible
24 company shall provide employee benefits equal to at least fifteen percent
25 (15%) of the applicable base hourly wage; however, if the eligible company
26 does not provide employee benefits equal to at least fifteen percent (15%) of
27 the applicable base hourly wage, the eligible company may qualify under this

1 section if it provides the employees hired by the eligible company as a result
2 of the economic development project total hourly compensation equal to or
3 greater than one hundred fifteen percent (115%) of the applicable base hourly
4 wage through increased hourly wages combined with employee benefits.

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

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

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

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

- 19 1. Which has not been in operation for a period of ninety (90) or more
20 consecutive days;
- 21 2. For which the current occupant of the facility has published a notice of
22 closure so long as the eligible company intending to acquire the facility
23 is not an affiliate of the current occupant; or
- 24 3. The title to which is vested in other than the eligible company or an
25 affiliate of the eligible company and that is sold or transferred pursuant
26 to a foreclosure ordered by a court of competent jurisdiction or an order
27 of a bankruptcy court of competent jurisdiction;

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

1 designating an eligible company as a preliminarily approved company and
2 authorizing the undertaking of the economic development project. After preliminary
3 approval, the authority may by final approval designate an eligible company to be
4 an approved company.

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

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

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

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

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

- 1 surface obstructions; filling, grading, and providing drainage and storm
2 water retention; installation of utilities such as water, sewer, sewage
3 treatment, gas, electric, communications, and similar facilities; off-site
4 construction of utility extensions to the boundaries of the real estate; or
5 similar activities as the authority may determine necessary for
6 construction; and
- 7 4. The leasing of real estate and the buildings and fixtures thereon
8 acquired, constructed, and installed with funds from grants under KRS
9 154.23-060;
- 10 (9) "Eligible company" means any corporation, limited liability company, partnership,
11 limited partnership, sole proprietorship, business trust, or any other legal entity
12 engaged in manufacturing, or service or technology; however, any company whose
13 primary purpose is retail sales shall not be an eligible company;
- 14 (10) "Employee benefits" means nonmandated costs paid by an eligible company for its
15 full-time employees for health insurance, life insurance, dental insurance, vision
16 insurance, defined benefits, 401(k), or similar plans;
- 17 (11) "Final approval" means action taken by the authority that authorizes the eligible
18 company to receive inducements in connection with a project under KRS 154.23-
19 005 to 154.23-079;
- 20 (12) "Full-time employee" means a person employed by an approved company for a
21 minimum of thirty-five (35) hours per week and subject to the state income tax
22 imposed by KRS 141.020;
- 23 (13) "Inducements" means the assessment and the income tax credits allowed to an
24 approved company under KRS 154.23-050 and 154.23-055;
- 25 (14) "Local government" means a city, county, or urban-county government;
- 26 (15) "Manufacturing" means to make, assemble, process, produce, or perform any other
27 activity that changes the form or conditions of raw materials and other property, and

1 shall include any ancillary activity to the manufacturing process, such as storage,
2 warehousing, distribution, and related office facilities; however, "manufacturing"
3 shall not include mining, the extraction of minerals or coal, or processing of these
4 resources;

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

10 (17) "Preliminary approval" means action taken by the authority that conditions final
11 approval of an eligible company and its economic development project upon
12 satisfaction by the eligible company of the applicable requirements under KRS
13 154.23-005 to 154.23-079;

14 (18) "Qualified employee" means an individual subject to Kentucky income tax who has
15 resided in the qualified zone where the project exists for at least twelve (12)
16 consecutive months preceding full-time employment by an approved company;

17 (19) "Qualified statewide employee" means an individual subject to Kentucky income
18 tax who has resided in any census tract or county in the Commonwealth that meets
19 the criteria in KRS 154.23-015, regardless of whether the tract or county is in a
20 qualified zone, for at least twelve (12) consecutive months preceding full-time
21 employment by an approved company;

22 (20) "Qualified zone" means any census tract or county certified as such by the authority
23 in KRS 154.23-015 and 154.23-020;

24 (21) "Rent" means:

25 (a) The actual annual rent or leasing fee paid by an approved company to a bona
26 fide entity negotiated at arm's length for the use of a building by the approved
27 company to conduct the approved project for which the inducement has been

1 granted; or

2 (b) The fair rental value on an annual basis in a building owned by the approved
3 company of the space used by the approved company to conduct the approved
4 project for which the inducement has been granted as determined by the
5 authority using criteria that are customary in the real estate industry for the
6 type of building being used. The fair rental value shall include an analysis of
7 the cost of amortizing the cost of land and building over the period of time
8 customary in the real estate industry for the type of building and for the land
9 being utilized; and

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

13 (22) "Service and technology agreement" means any agreement entered into under KRS
14 154.23-040 on behalf of the authority, an approved company engaged in service or
15 technology, and third-party lessors, if applicable, with respect to an economic
16 development project;

17 (23) (a) "Service or technology" means either:

- 18 1. Any activity involving the performance of work, except work classified
19 by the divisions, including successor divisions, of agriculture, forestry
20 and fishing, mining, utilities, construction, manufacturing, wholesale
21 trade, retail trade, real estate rental and leasing, educational services,
22 accommodation and food services, and public administration in
23 accordance with the "North American Industry Classification System,"
24 as revised by the United States Office of Management and Budget from
25 time to time, or any successor publication; or
- 26 2. Regional or headquarters operations of an entity engaged in an activity
27 listed in subparagraph 1. of this paragraph.

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

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

10 (25) "Tax incentive agreement" means that agreement entered into pursuant to KRS
11 154.23-035 between the authority and an approved company with respect to an
12 economic development project;

13 (26) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
14 141.0401; and

15 (27) "Kentucky gross profits" means Kentucky gross profits as defined in KRS
16 141.0401.

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

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

25 (a) A minimum total poverty rate of one hundred fifty percent (150%) of the
26 United States poverty rate as determined by the most recent decennial census;

27 (b) An unemployment rate that exceeds the statewide unemployment rate as

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

1 to request decertification of a census tract, and any addition of a census tract
2 requested by a county, urban-county government, or city of the first class under
3 KRS 154.23-020 shall be contiguous to a census tract that continues to meet the
4 criteria under this section.

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

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

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

- 9 (1) "Affiliate" has the same meaning as in KRS 154.22-010;
- 10 (2) "Agreement" means the service and technology agreement made pursuant to KRS
11 154.24-120, between the authority and an approved company with respect to an
12 economic development project;
- 13 (3) "Approved company" means any eligible company seeking to locate an economic
14 development project from outside the Commonwealth into the Commonwealth, or
15 undertaking an economic development project in the Commonwealth for which it is
16 approved pursuant to KRS 154.24-100;
- 17 (4) "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a
18 maximum of ten thousand dollars (\$10,000) per new full-time job created and to be
19 held by a Kentucky resident subject to the personal income tax of the
20 Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of
21 the service and technology agreement;
- 22 (5) "Assessment" means the "service and technology job creation assessment fee"
23 authorized by KRS 154.24-110;
- 24 (6) "Authority" means the Kentucky Economic Development Finance Authority, as
25 created in KRS 154.20-010;
- 26 (7) "Average hourly wage" means the wage and employment data published by the
27 ~~{Office of Employment and Training within the }~~Department of Workforce

- 1 Investment within the Education and Workforce Development Cabinet collectively
2 translated into wages per hour based on a two thousand eighty (2,080) hour work
3 year for the following sectors:
- 4 (a) Manufacturing;
 - 5 (b) Transportation, communications, and public utilities;
 - 6 (c) Wholesale and retail trade;
 - 7 (d) Finance, insurance, and real estate; and
 - 8 (e) Services;
- 9 (8) "Commonwealth" means the Commonwealth of Kentucky;
- 10 (9) "Economic development project" or "project" means a new or expanded service or
11 technology activity conducted at a new or expanded site by:
- 12 (a) An approved company; or
 - 13 (b) An approved company and its affiliate or affiliates;
- 14 (10) "Eligible company" means any corporation, limited liability company, partnership,
15 limited partnership, sole proprietorship, business trust, or any other entity engaged
16 in service or technology and meeting the standards promulgated by the authority in
17 accordance with KRS Chapter 13A;
- 18 (11) "Employee benefits" means nonmandated costs paid by an approved company for
19 its full-time employees for health insurance, life insurance, dental insurance, vision
20 insurance, defined benefits, 401(k) or similar plans;
- 21 (12) "Final approval" means the action taken by the authority authorizing the eligible
22 company to receive inducements under this subchapter;
- 23 (13) "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 tax imposed by
25 KRS 141.020;
- 26 (14) "In lieu of credits" means a local government appropriation to the extent permitted
27 by law, or other form of local government grant or service benefit, directly related

1 to the economic development project and in an amount equal to one percent (1%) of
2 employees' gross wages, exclusive of any noncash benefits provided to an
3 employee, or the provision by a local government of an in-kind contribution directly
4 related to the economic development project and in an amount equal to one half
5 (1/2) of the rent for the duration of the agreement;

6 (15) "Inducements" means the tax credits allowed and the assessment authorized by KRS
7 154.24-110, which are intended to induce companies engaged in service and
8 technology industries to locate or expand in the Commonwealth;

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

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

17 (18) "Rent" means:

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

22 (b) The fair rental value on an annual basis in a building owned by the approved
23 company of the space used by the approved company to conduct the approved
24 activity for which the inducement has been granted as determined by the
25 authority using criteria which is customary in the real estate industry for the
26 type of building being used. The fair rental value shall include an analysis of
27 the cost of amortizing the cost of land and building over the period of time

1 customary in the real estate industry for the type of building and for the land
2 being utilized;

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

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

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

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

25 (20) "Start-up costs" means the acquisition cost associated with the project related to the
26 furnishing and equipping the building for ordinary business functions, including
27 computers, furnishings, office equipment, the relocation of out-of-state equipment,

1 and nonrecurring costs of fixed telecommunication equipment as verified and
2 approved by the authority in accordance with KRS 154.24-130.

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

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

- 5 (1) "Activation date" means a date selected by an approved company in the agreement
6 at any time within the two (2) year period after the date of final approval of the
7 agreement by the authority;
- 8 (2) "Affiliate" has the same meaning as in KRS 154.22-010;
- 9 (3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS
10 154.28-090, between the authority and an approved company with respect to an
11 economic development project;
- 12 (4) "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 (5) "Approved company" means any eligible company, approved by the authority
16 pursuant to KRS 154.28-080, requiring an economic development project;
- 17 (6) "Approved costs" means:
- 18 (a) Obligations incurred for labor and to vendors, contractors, subcontractors,
19 builders, suppliers, deliverymen, and materialmen in connection with the
20 acquisition, construction, rehabilitation, and installation of an economic
21 development project;
- 22 (b) The cost of contract bonds and of insurance of all kinds that may be required
23 or necessary during the course of acquisition, construction, rehabilitation, and
24 installation of an economic project which is not paid by the vendor, supplier,
25 deliverymen, contractors, or otherwise else provided;
- 26 (c) All costs of architectural and engineering services, including estimates, plans
27 and specifications, preliminary investigations, and supervision of construction,

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

- 1 1. The acquisition of ownership in any real estate by the approved
2 manufacturing or agribusiness company or its affiliate;
- 3 2. The present ownership of real estate by the approved manufacturing or
4 agribusiness company or its affiliate;
- 5 3. The acquisition or present ownership of improvements or facilities, as
6 described in paragraph (b) of this subsection, on land which is possessed
7 or is to be possessed by the approved company pursuant to a ground
8 lease having a term of sixty (60) years or more; and
- 9 4. The legal possession of facilities by an approved company or its affiliate
10 pursuant to a lease having a term equal to or greater than ten (10) years
11 with a third-party entity, negotiated at arm's length, if the facility will be
12 used by the approved company to conduct the approved activity for
13 which the inducement has been granted. An economic development
14 project qualifying under this subparagraph shall only be eligible for
15 credits against equipment and costs related to installation of equipment
16 and for purposes of the tax credits provided under the provisions of KRS
17 154.28-010 to 154.28-090 only to the extent of twenty thousand dollars
18 (\$20,000) per job created by and maintained at the economic
19 development project. Notwithstanding KRS 154.28-090, an economic
20 development project qualifying under this subparagraph shall be eligible
21 only for the aggregate assessments pursuant to KRS 154.28-110
22 withheld by the approved company each year and shall not be eligible
23 for credit against Kentucky income tax and limited liability entity tax.
- 24 (b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real
25 estate shall only include fee ownership of real estate and possession of real
26 estate pursuant to a capital lease as determined in accordance with Statement
27 of Financial Accounting Standards No. 13, Accounting for Leases, issued by

1 the Financial Accounting Standards Board, November 1976. With respect to
2 paragraph (a)1., 2., and 3. of this subsection, the construction, installation,
3 equipping, and rehabilitating of improvements, including fixtures and
4 equipment directly involved in the manufacturing process, and facilities
5 necessary or desirable for improvement of the real estate shall include:
6 surveys, site tests, and inspections; subsurface site work and excavation;
7 removal of structures, roadways, cemeteries, and other site obstructions;
8 filling, grading, provision of drainage, and storm water retention; installation
9 of utilities such as water, sewer, sewage treatment, gas, electricity,
10 communications, and similar facilities; offsite construction of utility
11 extensions to the boundaries of the real estate; and the acquisition,
12 installation, equipping, and rehabilitation of manufacturing facilities or
13 agribusiness operations on the real estate for the use of the approved company
14 or its affiliates for manufacturing or agribusiness operational purposes.
15 Pursuant to paragraph (a)3. and 4. of this subsection and this paragraph, an
16 economic development project shall not include lease payments made
17 pursuant to a ground lease for purposes of the tax credits provided under the
18 provisions of KRS 154.28-010 to 154.28-100. An economic development
19 project shall include the equipping of a facility with equipment but, for
20 purposes of the tax credits provided under the provisions of KRS 154.28-010
21 to 154.28-090, only to the extent of twenty thousand dollars (\$20,000) per job
22 created by and maintained at the economic development project;

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

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) "Full-time employee" means a person employed by an approved company for a
3 minimum of thirty-five (35) hours per week and subject to the state income tax
4 imposed by KRS 141.020;
- 5 (15) "Inducement" means the assessment or the Kentucky income tax credit as set forth
6 in KRS 154.28-090;
- 7 (16) "Manufacturing" means any activity involving the manufacturing, processing,
8 assembling, or production of any property, including the processing resulting in a
9 change in the conditions of the property, and any activity functionally related to it,
10 together with storage, warehousing, distribution, and related office facilities;
11 however, "manufacturing" shall not include mining, coal or mineral processing, or
12 extraction of minerals;
- 13 (17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);
- 14 (18) "Kentucky gross profits" means "Kentucky gross profits" as defined in KRS
15 141.0401; and
- 16 (19) "Kentucky gross receipts" means "Kentucky gross receipts" as defined in KRS
17 141.0401.
- 18 ➔Section 25. KRS 154.32-050 is amended to read as follows:
- 19 (1) The authority shall identify and certify or decertify enhanced incentive counties on
20 an annual basis as provided in this section.
- 21 (2) Each fiscal year, the authority shall:
- 22 (a) Obtain from the ~~{Office of Employment and Training within the}~~ Department
23 of Workforce Investment in the Education and Workforce Development
24 Cabinet, the final unemployment figures for the prior calendar year for each
25 county and for the Commonwealth as a whole;
- 26 (b) Identify those counties which have had:
- 27 1. A countywide unemployment rate that exceeds the statewide

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

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

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

- 17 (1) The *executive director of the Office of Adult Education within the Department of*
18 *Workforce Investment in the Education and Workforce Development*
19 *Cabinet*~~[vice president of the Kentucky Adult Education Program in the Council on~~
20 ~~Postsecondary Education]~~ and the commissioner of education may enter into
21 agreements to train workers for new manufacturing jobs in new or expanding
22 industries characterized by one (1) or more of the following criteria: a high average
23 skill, a high average wage, rapid national growth, or jobs feasible and desirable for
24 location in rural regions. Such agreements shall not be subject to the requirements
25 of KRS 45A.045 and KRS 45A.690 to 45A.725 when awarded on the basis of a
26 detailed training plan approved by the appropriate agency head. Reimbursement to
27 the industry shall be made upon submission of documents validating actual training

1 expenditure not to exceed the amount approved by the training plan.

- 2 (2) The executive director~~[vice president]~~ and the commissioner of education may
3 approve authorization for his or her agency to enter into agreements with industries
4 whereby the industry may be reimbursed directly for the following services:
- 5 (a) The cost of instructors' salaries when the instructor is an employee of the
6 industry to be served;
 - 7 (b) Cost of only those supplies, materials, and equipment used exclusively in the
8 training program; and
 - 9 (c) Cost of leasing a training facility should a vocational education school or the
10 industrial plant not be available.

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

- 12 (1) No later than December 30, 2000, the Kentucky Department of Education shall
13 establish and implement a comprehensive statewide strategy to provide assistance to
14 local districts and schools to address the student dropout problem in Kentucky
15 public schools. In the development of the statewide strategy, the department shall
16 engage private and public representatives who have an interest in the discussion.
17 The statewide strategy shall build upon the existing programs and initiatives that
18 have proven successful. The department shall also take into consideration the
19 following:
- 20 (a) Analyses of annual district and school dropout data as submitted under KRS
21 158.148 and 158.6453;
 - 22 (b) State and federal resources and programs, including, but not limited to,
23 extended school services; early learning centers; family resource and youth
24 service centers; alternative education services; preschool; service learning;
25 drug and alcohol prevention programs; School-to-Careers; High Schools that
26 Work; school safety grants; and other relevant programs and services that
27 could be used in a multidimensional strategy;

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

1 be awarded to districts that average, over a three (3) year period, an annual dropout
2 rate exceeding five percent (5%).

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

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

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

11 (2) The services shall:

12 (a) Provide parents with instruction in basic academic skills, life skills which
13 include parenting skills, and employability skills;

14 (b) Provide the children with developmentally appropriate educational activities;

15 (c) Provide planned high-quality educational experiences requiring interaction
16 between parents and their children;

17 (d) Be of sufficient intensity and duration to help move families to self-
18 sufficiency and break the cycle of under education and poverty; and

19 (e) Be designed to reduce duplication with other educational providers to ensure
20 high quality and efficient services.

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

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

23 (a) "Concepts" means mathematical ideas that serve as the basis for
24 understanding mathematics;

25 (b) "Mathematics" means the curriculum of numbers and computations, geometry
26 and measurements, probability and statistics, and algebraic ideas;

27 (c) "Mathematics coach" means a mathematics leader whose primary

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

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

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

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

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

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

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

- 17 1. Define the curricula focus;
- 18 2. Build on the expertise of specific colleges and universities;
- 19 3. Place emphasis on mathematics concepts, skills and relationships,
20 diagnostic assessment, intervention services, and instructional strategies;
- 21 4. Identify quality control measures for the delivery of each institute;
- 22 5. Establish evaluation procedures for the summer institutes and the other
23 professional development components;
- 24 6. Provide updates and networking opportunities for coaches and mentors
25 throughout the school year; and
- 26 7. Define other components within the initiative that are necessary to meet
27 the goal of increasing student achievement in mathematics;

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

1 Education.

- 2 (4) The committee shall initially be composed of twenty-five (25) members as follows:
- 3 (a) The commissioner of education or his or her designee;
- 4 (b) The president of the Council on Postsecondary Education or his or her
5 designee;
- 6 (c) The president of the Association of Independent Kentucky Colleges and
7 Universities or his or her designee;
- 8 (d) The executive director of the Education Professional Standards Board or his
9 or her designee;
- 10 (e) The secretary of the Education and Workforce Development Cabinet or his or
11 her designee;
- 12 (f) A representative with a specialty in mathematics or mathematics education
13 who has expertise and experience in professional development, especially
14 with coaching and mentoring of teachers, from each of the nine (9) public
15 postsecondary education institutions defined in KRS 164.001. The
16 representatives shall be selected by mutual agreement of the president of the
17 Council on Postsecondary Education and the commissioner of education;
- 18 (g) Two (2) adult education instructors selected by the secretary of the Education
19 and Workforce Development Cabinet~~[vice president for Kentucky Adult~~
20 ~~Education]~~;
- 21 (h) Two (2) elementary, two (2) middle, and two (2) high school mathematics
22 teachers, appointed by the board of the statewide professional education
23 association having the largest paid membership with approval from their
24 respective local principals and superintendents of schools; and
- 25 (i) Three (3) school administrators, with one (1) each representing elementary,
26 middle, and high school, appointed by the board of the statewide
27 administrators' association having the largest paid membership with approval

1 from their respective local superintendents of schools.

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

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

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

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

23 (8) The committee shall be attached to the Kentucky Department of Education for
24 administrative purposes. The commissioner of education may contract with a
25 mathematics-trained professional to provide part-time staff support to the
26 committee. The commissioner of education and the president of the council shall
27 reach consensus in the selection of a person to fill the position. The person selected

1 shall have a graduate degree, a mathematics major, and teaching or administrative
2 experience in elementary and secondary education. The person shall not be a current
3 employee of any entity represented on the committee. The department shall provide
4 office space and other resources necessary to support the staff position and the work
5 of the committee.

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

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

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

20 (12) The committee shall:

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

25 (b) Present the strategic plan for improving mathematics achievement to the
26 Interim Joint Committee on Education by July 15, 2006, which shall include
27 any recommendations that require legislative action; and

1 (c) Provide a final written report of committee activities to the Interim Joint
2 Committee on Education and the Legislative Research Commission by
3 December 1, 2006.

4 (13) The committee shall have ongoing responsibility for providing advice and guidance
5 to policymakers in the development of statewide policies and in the identification
6 and allocation of resources to improve mathematics achievement. In carrying out
7 this responsibility, the committee shall periodically review the strategic plan and
8 make modifications as deemed appropriate and report those to the Interim Joint
9 Committee on Education.

10 (14) The committee shall collaborate with the Center for Mathematics to ensure that
11 there is ongoing identification of research-based intervention programs for K-12
12 students who have fallen behind in mathematics, rigorous mathematics curricula
13 that prepare students for the next level of schooling, research-based professional
14 development models that prepare teachers in mathematics and pedagogy, and
15 strategies for closing the gap between high school or a High School Equivalency
16 Diploma program and postsecondary mathematics preparation.

17 ➔Section 30. KRS 161.011 is amended to read as follows:

18 (1) (a) "Classified employee" means an employee of a local district who is not
19 required to have certification for his position as provided in KRS 161.020; and

20 (b) "Seniority" means total continuous months of service in the local school
21 district, including all approved paid and unpaid leave.

22 (2) The commissioner of education shall establish by January, 1992, job classifications
23 and minimum qualifications for local district classified employment positions which
24 shall be effective July 1, 1992. After June 30, 1992, no person shall be eligible to be
25 a classified employee or receive salary for services rendered in that position unless
26 he holds the qualifications for the position as established by the commissioner of
27 education.

- 1 (3) No person who is initially hired after July 13, 1990, shall be eligible to hold the
2 position of a classified employee or receive salary for services rendered in such
3 position, unless he holds at least a high school diploma or high school certificate of
4 completion or High School Equivalency Diploma, or he shows progress toward
5 obtaining a High School Equivalency Diploma. To show progress toward obtaining
6 a High School Equivalency Diploma, a person shall be enrolled in a High School
7 Equivalency Diploma program and be progressing satisfactorily through the
8 program, as defined by administrative regulations promulgated by the Education
9 and Workforce Development Cabinet~~[Council on Postsecondary Education]~~.
- 10 (4) Local school districts shall encourage classified employees who were initially hired
11 before July 13, 1990, and who do not have a high school diploma or a High School
12 Equivalency Diploma to enroll in a program to obtain a High School Equivalency
13 Diploma.
- 14 (5) Local districts shall enter into written contracts with classified employees. Contracts
15 with classified employees shall be renewed annually except contracts with the
16 following employees:
- 17 (a) An employee who has not completed four (4) years of continuous active
18 service, upon written notice which is provided or mailed to the employee by
19 the superintendent, no later than May 15, that the contract will not be renewed
20 for the subsequent school year. Upon written request by the employee, within
21 ten (10) days of the receipt of the notice of nonrenewal, the superintendent
22 shall provide, in a timely manner, written reasons for the nonrenewal.
- 23 (b) An employee who has completed four (4) years of continuous active service,
24 upon written notice which is provided or mailed to the employee by the
25 superintendent, no later than May 15, that the contract is not being renewed
26 due to one (1) or more of the reasons described in subsection (7) of this
27 section. Upon written request within ten (10) days of the receipt of the notice

1 of nonrenewal, the employee shall be provided with a specific and complete
2 written statement of the grounds upon which the nonrenewal is based. The
3 employee shall have ten (10) days to respond in writing to the grounds for
4 nonrenewal.

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

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

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

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

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

22 (c) Employees with more than four (4) years of continuous active service shall
23 have the right of recall positions if positions become available for which they
24 are qualified. Recall shall be done according to seniority with restoration of
25 primary benefits, including all accumulated sick leave and appropriate rank
26 and step on the current salary schedule based on the total number of years of
27 service in the district.

- 1 (9) Local school boards shall develop and provide to all classified employees written
2 policies which shall include but not be limited to:
- 3 (a) Terms and conditions of employment;
 - 4 (b) Identification and documentation of fringe benefits, employee rights, and
5 procedures for the reduction or laying off of employees; and
 - 6 (c) Discipline guidelines and procedures that satisfy due process requirements.
- 7 (10) Local school boards shall maintain a registry of all vacant classified employee
8 positions that is available for public inspection in a location determined by the
9 superintendent and make copies available at cost to interested parties. If financially
10 feasible, local school boards may provide training opportunities for classified
11 employees focusing on topics to include but not be limited to suicide prevention,
12 abuse recognition, and cardiopulmonary resuscitation (CPR). If suicide prevention
13 training is offered it may be accomplished through self-study review of suicide
14 prevention materials.
- 15 (11) The evaluation of the local board policies required for classified personnel as set out
16 in this section shall be subject to review by the Department of Education while it is
17 conducting district management audits pursuant to KRS 158.785.
- 18 ➔Section 31. KRS 161.220 is amended to read as follows:
- 19 As used in KRS 161.220 to 161.716 and 161.990:
- 20 (1) "Retirement system" means the arrangement provided for in KRS 161.220 to
21 161.716 and 161.990 for payment of allowances to members;
 - 22 (2) "Retirement allowance" means the amount annually payable during the course of his
23 natural life to a member who has been retired by reason of service;
 - 24 (3) "Disability allowance" means the amount annually payable to a member retired by
25 reason of disability;
 - 26 (4) "Member" means the commissioner of education, deputy commissioners, associate
27 commissioners, and all division directors in the State Department of Education,

1 employees participating in the system pursuant to KRS 196.167(3)(b)1., and any
2 full-time teacher or professional occupying a position requiring certification or
3 graduation from a four (4) year college or university, as a condition of employment,
4 and who is employed by public boards, institutions, or agencies as follows:

5 (a) Local boards of education;

6 (b) Eastern Kentucky University, Kentucky State University, Morehead State
7 University, Murray State University, Western Kentucky University, and any
8 community colleges established under the control of these universities;

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

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

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

18 (f) All full-time members of the staffs of the Kentucky Association of School
19 Administrators, Kentucky Education Association, Kentucky Vocational
20 Association, Kentucky High School Athletic Association, Kentucky Academic
21 Association, and the Kentucky School Boards Association who were members
22 of the Kentucky Teachers' Retirement System or were qualified for a position
23 covered by the system at the time of employment by the association in the
24 event that the board of directors of the respective association petitions to be
25 included. The board of trustees of the Kentucky Teachers' Retirement System
26 may designate by resolution whether part-time employees of the petitioning
27 association are to be included, except as limited by KRS 161.612. The state

1 shall make no contributions on account of these employees, either full-time or
2 part-time. The association shall make the employer's contributions, including
3 any contribution that is specified under KRS 161.550. The provisions of this
4 paragraph shall be applicable to persons in the employ of the associations on
5 or subsequent to July 1, 1972;

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

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

12 (i) The Office of Vocational Rehabilitation;

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

14 (k) The Governor's Scholars Program;

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

20 (m) Employees of the former Cabinet for Workforce Development who are
21 transferred to the Kentucky Community and Technical College System and
22 who occupy positions covered by the Kentucky Teachers' Retirement System
23 shall remain in the Teachers' Retirement System. New employees occupying
24 these positions, as well as newly created positions qualifying for Teachers'
25 Retirement System coverage that would have previously been included in the
26 former Cabinet for Workforce Development, shall be members of the
27 Teachers' Retirement System;

- 1 (n) Effective January 1, 1998, employees of state community colleges who are
2 transferred to the Kentucky Community and Technical College System shall
3 continue to participate in federal old age, survivors, disability, and hospital
4 insurance, and a retirement plan other than the Kentucky Teachers' Retirement
5 System offered by Kentucky Community and Technical College System. New
6 employees occupying positions in the Kentucky Community and Technical
7 College System as referenced in KRS 164.5807(5) that would not have
8 previously been included in the former Cabinet for Workforce Development,
9 shall participate in federal old age, survivors, disability, and hospital insurance
10 and have a choice at the time of employment of participating in a retirement
11 plan provided by the Kentucky Community and Technical College System,
12 including participation in the Kentucky Teachers' Retirement System, on the
13 same basis as faculty of the state universities as provided in KRS 161.235,
14 161.540, and 161.620;
- 15 (o) Employees of the Office of General Counsel, the Office of Budget and
16 Administrative Services, and the Office of Quality and Human Resources
17 within the Office of the Secretary of the former Cabinet for Workforce
18 Development and the commissioners of the former Department for Adult
19 Education and Literacy and the former Department for Technical Education
20 who were contributing to the Kentucky Teachers' Retirement System as of
21 July 15, 2000;
- 22 (p) Employees of the Kentucky Department of Education only who are graduates
23 of a four (4) year college or university, notwithstanding a substitution clause
24 within a job classification, and who are serving in a professional job
25 classification as defined by the department; and
- 26 (q) The Governor's School for Entrepreneurs Program; and
27 (r) Employees of the Office of Adult Education within the Department of

1 *Workforce Investment in the Education and Workforce Development*
2 *Cabinet who were employees of the Council on Postsecondary Education,*
3 *Kentucky Adult Education Program and who were members of the*
4 *Kentucky Teachers' Retirement System at the time the program was*
5 *transferred to the cabinet pursuant to Executive Orders 2019-0026 and*
6 *2019-0027.*

- 7 (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940,
8 and became a member of the retirement system created by 1938 (1st Extra. Sess.)
9 Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year
10 after that date, and any teacher who was a member of a local teacher retirement
11 system in the public elementary or secondary schools of the state on or before July
12 1, 1940, and continued to be a member of the system until he, with the membership
13 of the local retirement system, became a member of the state Teachers' Retirement
14 System or who becomes a member under the provisions of KRS 161.470(4);
- 15 (6) "New teacher" means any member not a present teacher;
- 16 (7) "Prior service" means the number of years during which the member was a teacher
17 in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior
18 service shall be allowed or credited to any teacher;
- 19 (8) "Subsequent service" means the number of years during which the teacher is a
20 member of the Teachers' Retirement System after July 1, 1941;
- 21 (9) "Final average salary" means the average of the five (5) highest annual salaries
22 which the member has received for service in a covered position and on which the
23 member has made contributions, or on which the public board, institution, or
24 agency has picked-up member contributions pursuant to KRS 161.540(2), or the
25 average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a),
26 which shall include picked-up member contributions. Additionally, the board of
27 trustees may approve a final average salary based upon the average of the three (3)

1 highest salaries for members who are at least fifty-five (55) years of age and have a
2 minimum of twenty-seven (27) years of Kentucky service credit. However, if any of
3 the five (5) or three (3) highest annual salaries used to calculate the final average
4 salary was paid within the three (3) years immediately prior to the date of the
5 member's retirement, the amount of salary to be included for each of those three (3)
6 years for the purpose of calculating the final average salary shall be limited to the
7 lesser of:

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

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

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

- 24 (10) "Annual compensation" means the total salary received by a member as
25 compensation for all services performed in employment covered by the retirement
26 system during a fiscal year. Annual compensation shall not include payment for any
27 benefit or salary adjustments made by the public board, institution, or agency to the

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

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

22 (12) "Employ," and derivatives thereof, means relationships under which an individual
23 provides services to an employer as an employee, as an independent contractor, as
24 an employee of a third party, or under any other arrangement as long as the services
25 provided to the employer are provided in a position that would otherwise be covered
26 by the Kentucky Teachers' Retirement System and as long as the services are being
27 provided to a public board, institution, or agency listed in subsection (4) of this

- 1 section;
- 2 (13) "Regular interest" means interest at three percent (3%) per annum, except:
- 3 (a) For an individual who becomes a member on or after July 1, 2008, but prior to
- 4 January 1, 2019, "regular interest" means interest at two and one-half percent
- 5 (2.5%) per annum for purposes of crediting interest to the teacher savings
- 6 account or any other contributions made by the employee that are refundable
- 7 to the employee upon termination of employment; and
- 8 (b) For an individual who becomes a member on or after January 1, 2019, who is
- 9 participating in the hybrid cash balance plan, "regular interest" means the
- 10 regular interest credited to the member's accumulated account balance as
- 11 provided by KRS 161.235;
- 12 (14) "Accumulated contributions" means the contributions of a member to the teachers'
- 13 savings fund, including picked-up member contributions as described in KRS
- 14 161.540(2), plus accrued regular interest;
- 15 (15) "Annuitant" means a person who receives a retirement allowance or a disability
- 16 allowance;
- 17 (16) "Local retirement system" means any teacher retirement or annuity system created
- 18 in any public school district in Kentucky in accordance with the laws of Kentucky;
- 19 (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The
- 20 retirement plan year is concurrent with this fiscal year. A contract for a member
- 21 employed by a local board of education may not exceed two hundred sixty-one
- 22 (261) days in the fiscal year;
- 23 (18) "Public schools" means the schools and other institutions mentioned in subsection
- 24 (4) of this section;
- 25 (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was
- 26 receiving, at the time of death of the member, at least one-half (1/2) of the support
- 27 from the member for maintenance, including board, lodging, medical care, and

1 related costs;

2 (20) "Active contributing member" means a member currently making contributions to
3 the Teachers' Retirement System, who made contributions in the next preceding
4 fiscal year, for whom picked-up member contributions are currently being made, or
5 for whom these contributions were made in the next preceding fiscal year;

6 (21) "Full-time" means employment in a position that requires services on a continuing
7 basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year
8 basis;

9 (22) "Full actuarial cost," when used to determine the payment that a member must pay
10 for service credit means the actuarial value of all costs associated with the
11 enhancement of a member's benefits or eligibility for benefit enhancements,
12 including health insurance supplement payments made by the retirement system.
13 The actuary for the retirement system shall determine the full actuarial value costs
14 and actuarial cost factor tables as provided in KRS 161.400;

15 (23) "Last annual compensation" means the annual compensation, as defined by
16 subsection (10) of this section and as limited by subsection (9) of this section,
17 earned by the member during the most recent period of contributing service, either
18 consecutive or nonconsecutive, that is sufficient to provide the member with one (1)
19 full year of service credit in the Kentucky Teachers' Retirement System, and which
20 compensation is used in calculating the member's initial retirement allowance,
21 excluding bonuses, retirement incentives, payments for accumulated sick leave
22 authorized by KRS 161.155, annual, personal, and compensatory leave, and any
23 other lump-sum payment. For an individual who becomes a member on or after July
24 1, 2008, payments for annual or compensatory leave shall not be included in
25 determining the member's last annual compensation;

26 (24) "Participant" means a member, as defined by subsection (4) of this section, or an
27 annuitant, as defined by subsection (15) of this section;

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

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

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

- 27 (1) "Office" means the Office~~[for the Blind]~~ **of Vocational Rehabilitation, or the duly**

1 **authorized division within the Office of Vocational Rehabilitation;**

2 (2) "Legally blind" means a visual acuity of 20/200 or less in the better eye with
3 correction or a visual field of 20 degrees or less;

4 (3) "Visually impaired" means a condition of the eye with correction which constitutes
5 or progressively results for the individual in a substantial disability to employment;
6 and

7 (4) "Executive director" means the executive director of the Office **of Vocational**
8 **Rehabilitation or the director of the duly authorized division within the Office of**
9 **Vocational Rehabilitation**~~[for the Blind].~~

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

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

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

15 ~~(2)~~~~(3)~~ The office shall be the state agency responsible for all rehabilitation services
16 for the blind and the visually impaired and other services as deemed necessary. The
17 office shall be the agency authorized to expend all state and federal funds
18 designated for rehabilitation services for the blind and visually impaired. The Office
19 of the Secretary of the Education and Workforce Development Cabinet is
20 authorized as the state agency to receive all state and federal funds and gifts and
21 bequests for the benefit of rehabilitation services for the blind and visually
22 impaired. The State Treasurer is designated as the custodian of all funds and shall
23 make disbursements for rehabilitation purposes upon certification by the executive
24 director.

25 ~~(3)~~~~(4)~~ ~~(a) The Kentucky Office for the Blind State Rehabilitation Council is~~
26 ~~hereby created and established to accomplish the purposes and functions~~
27 ~~enumerated in the Rehabilitation Act of 1973, as amended. Members of the~~

1 ~~council shall be appointed by the Governor from recommendations submitted~~
2 ~~by the Office for the Blind consistent with the federal mandate to include a~~
3 ~~majority of individuals who are blind or visually impaired representing~~
4 ~~specified organizations, service providers, and advocacy groups. The~~
5 ~~composition, qualifications, and terms of service of the council shall conform~~
6 ~~to those prescribed by the federal law. There shall be statewide representation~~
7 ~~on the council.~~

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

13 ~~2. The Governor may delegate the authority to fill a vacancy to the~~
14 ~~remaining voting members of the council.~~

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

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

1 ~~(4)~~~~(6)~~ At the close of each biennium, the office shall prepare a financial report and
2 present it to the secretary of the Education and Workforce Development Cabinet
3 and to the Governor. The biennial report shall be published. The biennial report
4 shall also contain a precise review of the work of the office and contain necessary
5 suggestions for improvement.

6 ~~(5)~~~~(7)~~ The office shall coordinate its functions with other appropriate public and
7 private agencies.

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

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

12 ~~(8)~~ ~~{(10) There shall be created under the authority of the office, to be directed by a~~
13 ~~director appointed by the secretary of the Education and Workforce Development~~
14 ~~Cabinet pursuant to KRS 12.050, a Division of Consumer Services which}~~The
15 Office of Vocational Rehabilitation shall provide intake and rehabilitation
16 counseling services; distribute or sell technical educational and other aids to the
17 blind; provide educational materials such as recorded texts, braille or large-type
18 texts, or such other materials as may be deemed necessary for the education of the
19 blind; research into the development of new technical aids for the blind, mobility
20 training, work evaluation, personal adjustment, independent living, and other
21 services as needed for blind adults, and services for the blind who have other
22 disabilities; and promote employment of the blind in public and private sectors.

23 ~~(9)~~~~(11)~~ There shall be established under the authority of the office, to be directed by a
24 director appointed by the secretary pursuant to KRS 12.050, the Division of
25 Kentucky Business Enterprise. This division shall manage and supervise the
26 Vending Facilities Program and license qualified blind persons as vendors. In
27 connection therewith, the office shall be authorized to own or lease vending

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

18 (10)~~(12)~~ The office ~~for the Blind~~, at all times, shall be authorized to provide
19 industrial evaluation, training, and employment. The office shall provide staff
20 services which shall include staff development and training, program development
21 and evaluation, and other staff services as may be deemed necessary.

22 (11)~~(13)~~ The provisions of any other statute notwithstanding, the executive director is
23 authorized to use receipt of funds from the Social Security reimbursement program
24 for a direct service delivery staff incentive program. Incentives may be awarded if
25 case service costs are reimbursed for job placement of Social Security or
26 Supplemental Security Income recipients at the Substantial Gainful Activity (SGA)
27 level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions

1 and criteria as are established by the federal reimbursement program.

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

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

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

20 (3) The General Assembly finds that a transition period from state division to a
21 nonprofit operation is necessary to ensure the success and continuation of the
22 important functions of the Kentucky Industries for the Blind. Therefore, the General
23 Assembly shall continue to support the Division of the Kentucky Industries for the
24 Blind through appropriations to the office~~for the Blind~~ for six (6) years in order to
25 eliminate eventually the necessity for annual state appropriations. The office~~for the~~
26 ~~Blind~~ shall monitor and safeguard the expenditure of those public moneys for the
27 use and benefit of the Kentucky Industries for the Blind and citizens who are blind

1 and visually impaired in the Commonwealth.

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

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

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

23 (1) The office~~[for the Blind]~~ may contract, to the extent funds are available under this
24 chapter and under conditions and standards established by the office, with any
25 nonprofit corporation able to provide expertise in the operation of workshops for
26 and rehabilitation of individuals who are blind or visually impaired and whose
27 objectives are to carry out the purposes of KRS 163.470 (10)~~[(12)]~~.

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

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

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

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

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

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

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

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

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

23 (2) The program shall:

24 (a) Provide accessible electronic information services for all eligible blind and
25 disabled persons as defined by KRS 163.487(2); and

26 (b) Make maximum use of available state, federal, and other funds by obtaining
27 grants or in-kind support from appropriate programs and securing access to

1 low-cost interstate rates for telecommunications by reimbursement or
2 otherwise.

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

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

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

- 13 (1) The economic future of the Commonwealth and the prosperity of its citizens depend
14 on the ability of Kentucky businesses to compete effectively in the world economy;
- 15 (2) A well-educated and highly trained workforce provides businesses in the
16 Commonwealth with the competitive edge critical for their success; and
- 17 (3) Too many adult Kentuckians are not full participants in the labor pool because they
18 lack a high school diploma, its equivalent, or the workplace knowledge necessary to
19 assure self-sufficiency for themselves and their families.

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

22 (1) The General Assembly recognizes the critical condition of the educational level of
23 Kentucky's adult population and seeks to stimulate the attendance at, and successful
24 completion of, programs that provide a High School Equivalency Diploma.
25 Incentives shall be provided to full-time employees who complete a High School
26 Equivalency Diploma program within one (1) year and their employers.

27 (2)~~(1)~~ The Office of Adult Education~~[Kentucky Adult Education Program]~~ within

1 the *Department of Workforce Investment in the Education and Workforce*
2 *Development Cabinet*~~[Council on Postsecondary Education]~~ shall promulgate
3 administrative regulations to establish the operational procedures for this section.

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

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

13 ~~(3)(2)~~ (a) An individual who has been out of secondary school for at least three (3)
14 years, develops and successfully completes a learning contract that requires a
15 minimum of five (5) hours per week to study for the High School Equivalency
16 Diploma program, and successfully earns a High School Equivalency Diploma
17 shall earn a tuition discount of two hundred fifty dollars (\$250) per semester
18 for a maximum of four (4) semesters at one (1) of Kentucky's public
19 postsecondary institutions.

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

22 ~~(4)(3)~~ An employer who assists an individual to complete his or her learning contract
23 under the provisions of this section shall receive a state tax credit against the
24 income tax imposed by KRS 141.020 or 141.040, and the limited liability entity tax
25 imposed by KRS 141.0401, with credit ordering as provided in KRS 141.0205 for a
26 portion of the released time given to the employee to study for the tests. The
27 application for the tax credit shall be supported with attendance documentation

1 provided by the *Office of Adult Education*~~[Kentucky Adult Education Program]~~
2 and calculated by multiplying fifty percent (50%) of the hours released for study by
3 the student's hourly salary, and not to exceed a credit of one thousand two hundred
4 fifty dollars (\$1250).

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

- 7 (1) The *Office of Adult Education*~~[Kentucky Adult Education Program]~~ within the
8 *Department of Workforce Investment in the Education and Workforce*
9 *Development Cabinet*~~[Council on Postsecondary Education]~~ shall promulgate
10 administrative regulations to establish programs aligned with the College and
11 Career Readiness Standards for Adult Education, or any other similar standards
12 adopted by the federal Office of Career, Technical, and Adult Education, which
13 upon successful completion, shall result in the issuance of a High School
14 Equivalency Diploma.
- 15 (2) At least one (1) program authorized under subsection (1) of this section shall
16 include a test aligned with the College and Career Readiness Standards for Adult
17 Education, or any other standards adopted by the federal Office of Career,
18 Technical, and Adult Education, to serve as a qualifying test, which upon passing,
19 shall entitle students to receive a High School Equivalency Diploma.
- 20 (3) For purposes of any public employment, a High School Equivalency Diploma shall
21 be considered equal to a high school diploma issued under the provisions of KRS
22 158.140.
- 23 (4) A High School Equivalency Diploma shall be issued without charge upon
24 successfully completing a High School Equivalency Diploma program. A fee may
25 be assessed by the *Office of Adult Education*~~[Kentucky Adult Education Program]~~
26 for the issuance of a duplicate High School Equivalency Diploma and for issuance
27 of a duplicate score report. All fees collected for duplicate diplomas and score

1 reports shall be used to support the adult education program.

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

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

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

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

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

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

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

27 (2) "Family literacy services" means services that are of sufficient intensity in terms of

1 hours, and of sufficient duration, to assist a family to make sustainable increases in
2 its literacy level, and integrate the activities described in KRS 158.360; and

3 (3) "Literacy" means an individual's ability to read, write, and speak in English and
4 compute and solve problems at levels of proficiency necessary to function on the
5 job and in society to achieve one's goals and develop one's knowledge and potential.

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

7 The Council on Postsecondary Education in Kentucky shall:

8 (1) Develop and implement the strategic agenda with the advice and counsel of the
9 Strategic Committee on Postsecondary Education. The council shall provide for and
10 direct the planning process and subsequent strategic implementation plans based on
11 the strategic agenda as provided in KRS 164.0203;

12 (2) Revise the strategic agenda and strategic implementation plan with the advice and
13 counsel of the committee as set forth in KRS 164.004;

14 (3) Develop a system of public accountability related to the strategic agenda by
15 evaluating the performance and effectiveness of the state's postsecondary system.
16 The council shall prepare a report in conjunction with the accountability reporting
17 described in KRS 164.095, which shall be submitted to the committee, the
18 Governor, and the General Assembly by December 1 annually. This report shall
19 include a description of contributions by postsecondary institutions to the quality of
20 elementary and secondary education in the Commonwealth;

21 (4) Review, revise, and approve the missions of the state's universities and the
22 Kentucky Community and Technical College System. The Council on
23 Postsecondary Education shall have the final authority to determine the compliance
24 of postsecondary institutions with their academic, service, and research missions;

25 (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively
26 provide for an integrated system of postsecondary education. The council shall
27 guard against inappropriate and unnecessary conflict and duplication by promoting

- 1 transferability of credits and easy access of information among institutions;
- 2 (6) Engage in analyses and research to determine the overall needs of postsecondary
3 education and adult education in the Commonwealth;
- 4 (7) Develop plans that may be required by federal legislation. The council shall for all
5 purposes of federal legislation relating to planning be considered the "single state
6 agency" as that term may be used in federal legislation. When federal legislation
7 requires additional representation on any "single state agency," the Council on
8 Postsecondary Education shall establish advisory groups necessary to satisfy federal
9 legislative or regulatory guidelines;
- 10 (8) (a) Determine tuition and approve the minimum qualifications for admission to
11 the state postsecondary educational system. In defining residency, the council
12 shall classify a student as having Kentucky residency if the student met the
13 residency requirements at the beginning of his or her last year in high school
14 and enters a Kentucky postsecondary education institution within two (2)
15 years of high school graduation. In determining the tuition for non-Kentucky
16 residents, the council shall consider the fees required of Kentucky students by
17 institutions in adjoining states, the resident fees charged by other states, the
18 total actual per student cost of training in the institutions for which the fees
19 are being determined, and the ratios of Kentucky students to non-Kentucky
20 students comprising the enrollments of the respective institutions, and other
21 factors the council may in its sole discretion deem pertinent, except that the
22 Kentucky Community and Technical College System may assess a mandatory
23 student fee not to exceed eight dollars (\$8) per credit hour to be used
24 exclusively for debt service on amounts not to exceed seventy-five percent
25 (75%) of the total projects cost of the Kentucky Community and Technical
26 College System agency bond projects included in 2014 Ky. Acts ch. 117, Part
27 II, J., 11.

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

1 System.

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

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

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

18 (14) Establish course credit, transfer, and degree components as required in KRS
19 164.2951;

20 (15) Define and approve the offering of all postsecondary education technical, associate,
21 baccalaureate, graduate, and professional degree, certificate, or diploma programs in
22 the public postsecondary education institutions. The council shall expedite wherever
23 possible the approval of requests from the Kentucky Community and Technical
24 College System board of regents relating to new certificate, diploma, technical, or
25 associate degree programs of a vocational-technical and occupational nature.
26 Without the consent of the General Assembly, the council shall not abolish or limit
27 the total enrollment of the general program offered at any community college to

- 1 meet the goal of reasonable access throughout the Commonwealth to a two (2) year
2 course of general studies designed for transfer to a baccalaureate program. This
3 does not restrict or limit the authority of the council, as set forth in this section, to
4 eliminate or make changes in individual programs within that general program;
- 5 (16) Eliminate, in its discretion, existing programs or make any changes in existing
6 academic programs at the state's postsecondary educational institutions, taking into
7 consideration these criteria:
- 8 (a) Consistency with the institution's mission and the strategic agenda;
9 (b) Alignment with the priorities in the strategic implementation plan for
10 achieving the strategic agenda;
11 (c) Elimination of unnecessary duplication of programs within and among
12 institutions; and
13 (d) Efforts to create cooperative programs with other institutions through
14 traditional means, or by use of distance learning technology and electronic
15 resources, to achieve effective and efficient program delivery;
- 16 (17) Ensure the governing board and faculty of all postsecondary education institutions
17 are committed to providing instruction free of discrimination against students who
18 hold political views and opinions contrary to those of the governing board and
19 faculty;
- 20 (18) Review proposals and make recommendations to the Governor regarding the
21 establishment of new public community colleges, technical institutions, and new
22 four (4) year colleges;
- 23 (19) Postpone the approval of any new program at a state postsecondary educational
24 institution, unless the institution has met its equal educational opportunity goals, as
25 established by the council. In accordance with administrative regulations
26 promulgated by the council, those institutions not meeting the goals shall be able to
27 obtain a temporary waiver, if the institution has made substantial progress toward

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

1 and continuing education opportunities for all council and board members.
2 For new members of the council and institutional governing boards, the
3 council shall:

- 4 1. Ensure that the orientation and education program comprises six (6)
5 hours of instruction time and includes but is not limited to information
6 concerning the roles of the council and governing board members, the
7 strategic agenda and the strategic implementation plan, and the
8 respective institution's mission, budget and finances, strategic plans and
9 priorities, institutional policies and procedures, board fiduciary
10 responsibilities, legal considerations including open records and open
11 meetings requirements, ethical considerations arising from board
12 membership, and the board member removal and replacement provisions
13 of KRS 63.080;
 - 14 2. Establish delivery methods by which the orientation and education
15 program can be completed in person or electronically by new members
16 within one (1) year of their appointment or election;
 - 17 3. Provide an annual report to the Governor and Legislative Research
18 Commission of those new board members who do not complete the
19 required orientation and education program; and
 - 20 4. Invite governing board members of private colleges and universities
21 licensed by the Council on Postsecondary Education to participate in the
22 orientation and education program described in this subsection;
- 23 (b) Offer, in cooperation with the public universities and the Kentucky
24 Community and Technical College System, continuing education
25 opportunities for all council and governing board members; and
- 26 (c) Review and approve the orientation programs of each public university and
27 the Kentucky Community and Technical College System for their governing

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

1 institution. The institution shall waive the tuition up to a maximum of six (6) credit
2 hours per term. The employee shall complete the Free Application for Federal
3 Student Aid to determine the level of need and eligibility for state and federal
4 financial aid programs. The amount of tuition waived shall not exceed the cost of
5 tuition at the institution less any state or federal grants received, which shall be
6 credited first to the student's tuition;

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

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

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

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

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

26 ~~(e) Administer the adult education and literacy initiative fund created under KRS~~
27 ~~164.041;~~

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

7 ~~(35)~~~~(36)~~ Cooperate with the Kentucky Department of Education and the Education
8 Professional Standards Board in providing information sessions to selected
9 postsecondary education content faculty and teacher educators of the high school
10 academic content standards as required under KRS 158.6453(2)(1);

11 ~~(36)~~~~(37)~~ Cooperate with the Office for Education and Workforce Statistics and ensure
12 the participation of the public institutions as required in KRS 151B.133;

13 ~~(37)~~~~(38)~~ Pursuant to KRS 63.080, review written notices from the Governor or from a
14 board of trustees or board of regents concerning removal of a board member or the
15 entire appointed membership of a board, investigate the member or board and the
16 conduct alleged to support removal, and make written recommendations to the
17 Governor and the Legislative Research Commission as to whether the member or
18 board should be removed; and

19 ~~(38)~~~~(39)~~ Exercise any other powers, duties, and responsibilities necessary to carry out
20 the purposes of this chapter. Nothing in this chapter shall be construed to grant the
21 Council on Postsecondary Education authority to disestablish or eliminate any
22 college of law which became a part of the state system of higher education through
23 merger with a state college.

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

25 (1) The Council on Postsecondary Education shall adopt a strategic agenda that
26 identifies specific short-term objectives in furtherance of the long-term goals
27 established in KRS 164.003(2).

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

1 Kentucky's employers.

2 (5) The council shall develop benchmarks using criteria that shall include but not be
3 limited to:

4 (a) Use of the statistical information commonly provided by governmental and
5 regulatory agencies or specific data gathered by authorization of the council;

6 (b) Comparison of regions and areas within the Commonwealth and comparisons
7 of the Commonwealth to other states and the nation; and

8 (c) Measures of educational attainment, effectiveness, and efficiency, including
9 but not limited to those set forth in KRS 164.095.

10 (6) The council shall review the goals established by KRS 164.003(2) at least every
11 four (4) years and shall review its implementation plan at least every two (2) years.

12 (7) In developing the strategic agenda, the council shall actively seek input from the
13 Department of Education and local school districts to create necessary linkages to
14 assure a smooth and effective transition for students from the elementary and
15 secondary education system to the postsecondary education system. Upon
16 completion of the strategic agenda and strategic implementation plan, the council
17 shall distribute copies to each local school district.

18 (8) The strategic agenda shall include a long-term strategy, developed in partnership
19 with the Office of Adult Education~~[Kentucky Adult Education Program]~~, for
20 raising the knowledge and skills of Kentucky's adult population, and ensuring
21 lifelong learning opportunities for all Kentucky adults, drawing on the resources of
22 all state government cabinets and agencies, business and civic leadership, and
23 voluntary organizations.

24 ➔Section 44. KRS 164.0207 is amended to read as follows:

25 (1) The Collaborative Center for Literacy Development: Early Childhood through
26 Adulthood is created to make available professional development for educators in
27 reliable, replicable research-based reading programs, and to promote literacy

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

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

1 Department of Education, the Governor, and the Legislative Research Commission
2 no later than September 1 of each year.

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

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

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

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

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

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

27 *(d) Establish standards for adult literacy and monitor progress in achieving the*

1 state's adult literacy goals, including existing standards that may have been
 2 developed to meet requirements of federal law in conjunction with the
 3 Collaborative Center for Literacy Development: Early Childhood through
 4 Adulthood; and

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

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

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

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

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

23 (2) Funding for the foundation shall be obtained through contributions by the private
 24 sector. The foundation shall be empowered to solicit and accept funds from the
 25 private sector to be used for grants to local education agencies to fund adult basic
 26 education programs especially designed for business and industry. Contributors may
 27 specify that contributed funds be used to improve the educational level of their

1 employees as it relates to the High School Equivalency Diploma program.

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

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

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

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

19 ~~(b)~~(a) Services shall be provided at multiple sites appropriate for adult
 20 learning, including vocational and technical colleges, community colleges,
 21 comprehensive universities, adult education centers, public schools, libraries,
 22 family resource centers, adult correctional facilities, other institutions, and
 23 through the Kentucky Commonwealth Virtual University. Services shall be
 24 targeted to communities with the greatest need based on the number of adults
 25 at literacy levels I and II as defined by the 1997 Kentucky Adult Literacy
 26 Survey and other indicators of need.

27 ~~(c)~~(b) Access and referral services shall be initiated at multiple points

1 including businesses, educational institutions, labor organizations,
2 employment offices, and government offices.

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

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

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

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

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

25 (c) Assist adult educators to meet professional standards;

26 (d) Create an awareness program in cooperation with the Administrative Office of
27 the Courts to ensure that District and Circuit Court Judges are aware of the

1 provisions of KRS 533.200 and the methods to access adult education and
2 literacy programs for persons sentenced under the statute;

3 (e) Develop administrative regulations including those for business and industry
4 service participation and mechanisms for service funding through all
5 appropriate federal, state, local, and private resources;

6 (f) Require and monitor compliance with the program's administrative
7 regulations and policies; and

8 (g) Develop and implement performance measures and benchmarks.

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

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

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

22 (1) There is created in the *Education and Workforce Development Cabinet*~~[Council on~~
23 ~~Postsecondary Education,]~~ a special fund to be known as the adult education and
24 literacy initiative fund, which shall consist of moneys appropriated by the General
25 Assembly, gifts, grants, other sources of funding, public and private, and interest
26 accrued by the fund. This fund shall not lapse at the end of a fiscal year but shall be
27 carried forward to be used only for the purposes specified in this section. Moneys

1 accumulated in this fund on the effective date of this Act~~[July 14, 2000,]~~ shall
2 remain in the fund and be transferred to the Education and Workforce
3 Development Cabinet~~[Council on Postsecondary Education]~~ to be used for
4 purposes stated in this section.

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

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

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

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

25 (b) Research and demonstration. The funds shall be used to develop:

26 1. Standards for the preparation, professional development, and support for
27 adult educators with the advice of the Office of Adult

- 1 **Education**~~[Kentucky Adult Education Program]~~ and as compatible with
2 funds provided under Title II of the Federal Workforce Investment Act;
3 2. A statewide competency-based certification for transferable skills in the
4 workplace; and
5 3. A statewide public information and marketing campaign.

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

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

- 1 College System or a public university;
- 2 (h) "KCTCS" means the Kentucky Community and Technical College System;
- 3 (i) "KCTCS allocable resources" means the formula base amount net
- 4 of any equity adjustment as described in subsection (7)(b) of this section, any
- 5 amount protected by a hold-harmless provision, and any applicable increase or
- 6 decrease in general fund appropriations;
- 7 (j) "Research universities" means the University of Kentucky and the University
- 8 of Louisville;
- 9 (k) "Stop-loss provision" means a provision included in the funding formulas as
- 10 described in subsection (9) of this section to limit reduction of an institution's
- 11 funding amount to a predetermined percentage, notwithstanding the amounts
- 12 calculated by operation of the formula; and
- 13 (l) "University allocable resources" means the formula base amount net of any
- 14 small school adjustment as described in subsection (5)(c) of this section, any
- 15 amount protected by a hold-harmless provision, and any applicable increase or
- 16 decrease in general fund appropriations.
- 17 (2) The General Assembly hereby finds that improving opportunity for the
- 18 Commonwealth's citizens and building a stronger economy can be achieved by its
- 19 public college and university system focusing its efforts and resources on the goals
- 20 of:
- 21 (a) Increasing the retention and progression of students toward timely credential
- 22 or degree completion;
- 23 (b) Increasing the number and types of credentials and degrees earned by all types
- 24 of students;
- 25 (c) Increasing the number of credentials and degrees that garner higher salaries
- 26 upon graduation, such as science, technology, engineering, math, and health,
- 27 and in areas of industry demand;

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

- 1 (6) Funding for the public university sector shall be distributed as follows:
- 2 (a) Thirty-five percent (35%) of total university allocable resources shall be
- 3 distributed based on each university's share of total student success outcomes
- 4 produced, including but not limited to:
- 5 1. Bachelor's degree production;
- 6 2. Bachelor's degrees awarded per one hundred (100) undergraduate full-
- 7 time equivalent students;
- 8 3. Numbers of students progressing beyond thirty (30), sixty (60), and
- 9 ninety (90) credit hour thresholds;
- 10 4. Science, technology, engineering, math, and health bachelor's degree
- 11 production; and
- 12 5. Bachelor's degrees earned by low-income students and underrepresented
- 13 minority students;
- 14 (b) Thirty-five percent (35%) of total university allocable resources shall be
- 15 distributed based on each university's share of sector total student credit hours
- 16 earned, excluding dual credit enrollment, weighted to account for cost
- 17 differences by academic discipline and course level, such as lower and upper
- 18 division baccalaureate, master's, doctoral research, and doctoral professional;
- 19 and
- 20 (c) Thirty percent (30%) of total university allocable resources shall be distributed
- 21 in support of vital campus operations as follows:
- 22 1. Ten percent (10%) shall be distributed based on each university's share
- 23 of Category I and Category II square feet, net of research, nonclass
- 24 laboratory, and open laboratory space, to support maintenance and
- 25 operation of campus facilities and may include a space utilization factor
- 26 as determined by the council in collaboration with the working group
- 27 established in subsection (11) of this section;

- 1 2. Ten percent (10%) shall be distributed based on each university's share
2 of total instruction and student services spending, net of maintenance
3 and operation, to support campus administrative functions; and
 - 4 3. Ten percent (10%) shall be distributed based on each university's share
5 of total full-time equivalent student enrollment to support academic
6 support services such as libraries and academic computing.
- 7 (7) The funding formula for the KCTCS sector:
- 8 (a) Shall distribute one hundred percent (100%) of KCTCS institution allocable
9 resources for all KCTCS colleges based on rational criteria, including student
10 success, course completion, and operational support components, regardless
11 of whether state funding for postsecondary institution operations increases,
12 decreases, or remains stable;
 - 13 (b) May include an adjustment to account for declining enrollment in some
14 regions of the Commonwealth as determined by the council; and
 - 15 (c) Shall be constructed to achieve equilibrium, at which point the funding
16 formula rewards rates of improvement above the sector average rate.
- 17 (8) Funding for the KCTCS sector shall be distributed as follows:
- 18 (a) Thirty-five percent (35%) of total KCTCS institution allocable resources shall
19 be distributed based on each college's share of total student success outcomes
20 produced, including but not limited to:
 - 21 1. Certificate, diploma, and associate degree production;
 - 22 2. Numbers of students progressing beyond fifteen (15), thirty (30), and
23 forty-five (45) credit hour thresholds;
 - 24 3. Science, technology, engineering, math, and health credentials
25 production;
 - 26 4. Production of high-wage, high-demand, industry credentials as
27 determined using occupational outlook data and employment statistics

- 1 wage data provided by the *Department of Workforce Investment in the*
2 *Education and Workforce Development Cabinet*~~[Kentucky Office of~~
3 ~~Employment and Training]~~;
- 4 5. Production of industry credentials designated as targeted industries by
5 the Education and Workforce Development Cabinet;
- 6 6. Credentials earned by low-income students, underprepared students, and
7 underrepresented minority students; and
- 8 7. Transfers to four (4) year institutions;
- 9 (b) Thirty-five percent (35%) of total KCTCS institution allocable resources shall
10 be distributed based on each college's share of total student credit hours
11 earned, weighted to account for cost differences by academic discipline; and
- 12 (c) Thirty percent (30%) of total KCTCS institution allocable resources shall be
13 distributed in support of vital campus operations as follows:
- 14 1. Ten percent (10%) shall be distributed based on each college's share of
15 Category I and Category II square feet, net of research, nonclass
16 laboratory, and open laboratory space, to support maintenance and
17 operation of campus facilities and may include a space utilization factor
18 as determined by the council in collaboration with the postsecondary
19 education working group established in subsection (11) of this section;
- 20 2. Ten percent (10%) shall be distributed based on each college's share of
21 total instruction and student services spending, net of maintenance and
22 operation, to support campus administrative functions; and
- 23 3. Ten percent (10%) shall be distributed based on each college's share of
24 total full-time equivalent student enrollment to support academic
25 support services such as libraries and academic computing.
- 26 (9) (a) The funding formula for both sectors shall include:
- 27 1. A hold-harmless provision for fiscal year 2018-2019 preventing a

- 1 reduction in an institution's funding amount based solely on the formula
2 calculation, and allowing a hold-harmless amount determined by the
3 formula in fiscal year 2018-2019 to be deducted from an institution's
4 formula base amount in whole or in part in fiscal years 2019-2020 and
5 2020-2021, as determined by the council;
- 6 2. A stop-loss provision for fiscal year 2019-2020 limiting the reduction in
7 funding to any institution to one percent (1%) of that institution's
8 formula base amount; and
- 9 3. A stop-loss provision for fiscal year 2020-2021 limiting the reduction in
10 funding to any institution to two percent (2%) of that institution's
11 formula base amount.
- 12 (b) For fiscal year 2021-2022 and thereafter, hold-harmless and stop-loss
13 provisions shall not be included in the funding formulas except by enactment
14 of the General Assembly.
- 15 (c) Paragraph (a) of this subsection shall not be construed to limit the level of a
16 budget reduction that may be enacted by the General Assembly or
17 implemented by the Governor.
- 18 (10) (a) By April 1, 2017, and each April 1 thereafter, the council shall certify to the
19 Office of the State Budget Director the amount to be distributed to each of the
20 public universities and KCTCS as determined by the comprehensive funding
21 model created in this section, not to exceed the available balance in the
22 postsecondary education performance fund created in subsection (13) of this
23 section.
- 24 (b) The Office of the State Budget Director shall distribute the appropriations in
25 the postsecondary education performance fund for that fiscal year to the
26 institutions in the amounts the council has certified. The adjusted
27 appropriations to each institution shall be allotted as provided in KRS 48.600,

1 48.605, 48.610, 48.620, and 48.630.

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

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

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

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

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

24 (12) The council shall promulgate administrative regulations under KRS Chapter 13A to
25 implement the provisions of this section.

26 (13) (a) The postsecondary education performance fund is hereby established as an
27 appropriation unit to support improvement in the operations of the public

1 postsecondary institutions and achievement of the Commonwealth's education
2 policy goals and workforce development priorities. General fund moneys may
3 be appropriated by the General Assembly to this fund for distribution to the
4 public postsecondary institutions in amounts determined through the
5 comprehensive funding model created in this section.

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

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

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

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

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

27 (c) "Nonprinted instructional material" means instructional material in a format

- 1 other than print, including instructional material that requires the availability
2 of electronic equipment in order to be used as a learning resource, including
3 but not limited to software programs, videodiscs, videotapes, and audio tapes;
- 4 (d) "Printed instructional material" means instructional material in book or other
5 printed form;
- 6 (e) "Publisher" means an individual, firm, partnership, corporation, or other entity
7 that publishes or manufactures instructional material used by students
8 attending a public or independent postsecondary education institution in
9 Kentucky;
- 10 (f) "State Repository for Alternative Format Instructional Materials" or
11 "repository" means a consortium established or otherwise designated by the
12 Council on Postsecondary Education under subsection (8) of this section to
13 serve as a state repository for electronic files or alternative format
14 instructional materials obtained from publishers, created by institutions, or
15 received through other means;
- 16 (g) "Structural integrity" means the inclusion of all of the information provided in
17 printed instructional material, including but not limited to the text of the
18 material sidebars, the table of contents, chapter headings and subheadings,
19 footnotes, indexes, and glossaries, but need not include nontextual elements
20 such as pictures, illustrations, graphs, or charts; and
- 21 (h) "Working day" means a day that is not Saturday, Sunday, or a national
22 holiday.
- 23 (2) The purpose of this section is to ensure, to the maximum extent possible, that all
24 postsecondary students with a disability in Kentucky requiring reading
25 accommodations, in accordance with Section 504 of the Rehabilitation Act, 29
26 U.S.C. sec. 794, or the Americans with Disabilities Act, 42 U.S.C. secs. 12101 et
27 seq., including but not limited to students who are blind, are visually impaired, or

1 have a specific learning disability or other disability affecting reading, shall have
2 access to instructional materials in alternative formats that are appropriate to their
3 disability and educational needs.

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

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

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

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

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

13 (b) Be compatible with commonly used braille translation and speech synthesis
14 software;

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

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

25 (5) The publisher shall transmit or otherwise send an electronic format version of
26 requested instructional material within fifteen (15) working days of receipt of an
27 appropriately completed request. Should this timetable present an undue burden for

1 a publisher, the publisher shall submit within the fifteen (15) working day period a
2 statement to the requesting entity certifying the expected date for transmission or
3 delivery of the file.

4 (6) (a) To receive an electronic format version of instructional material, a written
5 request shall be submitted to the publisher that certifies:

6 1. The instructional material has been purchased for use by a student with a
7 disability by the student or the institution the student attends or is
8 registered to attend;

9 2. The student has a disability that prevents the student from using the
10 standard instructional material; and

11 3. The instructional material is for use by the student in connection with a
12 course in which he or she is registered or enrolled.

13 (b) A publisher may also require a statement signed by the student or, if the
14 student is a minor, the student's parent or legal guardian, agreeing that the
15 student will:

16 1. Use the electronic copy of the instructional material solely for his or her
17 own educational purposes; and

18 2. Not copy or distribute the instructional material for use by others.

19 (7) The request for an electronic format version of instructional material shall be
20 prepared and signed by:

21 (a) The coordinator of services for students with a disability at the institution;

22 (b) A representative of the Division of~~Office for the~~ Blind Services within the
23 Office of Vocational Rehabilitation in the Education and Workforce
24 Investment Cabinet;

25 (c) A representative of the Office of Vocational Rehabilitation; or

26 (d) A representative of the State Repository for Alternative Format Instructional
27 Materials.

- 1 (8) The Council on Postsecondary Education may, to the extent funds are available,
2 establish or otherwise designate a consortium to be called the State Repository for
3 Alternative Format Instructional Materials to serve as a state repository for
4 electronic files and alternative format materials for the purpose of facilitating the
5 timely access of appropriate alternative instructional materials by postsecondary
6 students with a disability.
- 7 (9) The Council on Postsecondary Education may promulgate administrative
8 regulations governing the implementation and administration of this section.
- 9 (10) The council shall work with representatives of each postsecondary institution to
10 develop policies and procedures designed to ensure to the maximum extent possible
11 that students with disabilities have access to instructional materials in appropriate
12 alternative formats within the first week of class.
- 13 (11) The council, in consultation with appropriate entities, including but not limited to
14 the Office of Vocational Rehabilitation~~[for the Blind]~~, the Kentucky Assistive
15 Technology Service Network, Recording for the Blind and Dyslexic, and the
16 Kentucky Association on Higher Education and Disability, shall include within its
17 annual status report on postsecondary education in Kentucky a continuing
18 assessment of the need for statewide technical assistance, training, and other
19 supports designed to increase the availability and effective use of alternative format
20 instructional materials.
- 21 (12) The State Repository for Alternative Format Instructional Materials or the council
22 may receive electronic files and alternative format materials from:
- 23 (a) Publishers;
- 24 (b) Postsecondary education institutions that have created alternative materials for
25 use by a student with a disability;
- 26 (c) The Kentucky Department of Education, receiving electronic files from
27 publishers under the requirements of KRS 156.027; or

1 (d) Other sources.

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

5 (a) Postsecondary education institutions in Kentucky; and

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

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

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

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

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

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

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

24 1. The repository;

25 2. A Kentucky postsecondary education institution serving a student with a
26 disability; and

27 3. An authorized entity as defined under 17 U.S.C. sec. 121 that commonly

1 provides alternative format materials for use by students in Kentucky
2 institutions.

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

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

11 (19) Nothing in this section shall absolve covered entities from the obligation to provide
12 equivalent access to information technology and software as set forth in KRS
13 61.982.

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

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

19 As used in KRS 186.576 to 186.579:

20 (1) "Applicant" means any person applying for an instruction permit or an operator's
21 license who must use a bioptic telescopic device in order to operate a motor vehicle;

22 (2) "Binocular vision" means visual acuity that is 20/200 or better in both eyes, with or
23 without corrective lenses;

24 (3) "Bioptic telescopic device" means a two (2) focus optical system used to magnify
25 distant objects by including a small telescope that is mounted in a spectacle lens in a
26 manner to allow an unobstructed view of the horizontal visual field through a
27 person's normal distance corrective lens;

- 1 (4) "Certified driver training program" means a program that provides and coordinates
2 comprehensive assessment and training of driving skills and responses that
3 emphasizes the vision, hearing, psychological, perceptual, orientation, and mobility
4 skills of an applicant and that is certified by the department;
- 5 (5) "Combined visual acuity" means visual acuity attained by using both eyes together
6 where a person has binocular vision;
- 7 (6) "Corrective lenses" means eyeglasses, contact lenses, and intraocular lenses, but
8 does not mean a bioptic telescopic device;
- 9 (7) "Daytime driving restriction" means operation of a motor vehicle is restricted to the
10 period of time from between thirty (30) minutes after sunrise and thirty (30) minutes
11 before sunset. Under this restriction, driving during adverse weather conditions that
12 significantly reduce the visibility of the roadway, other traffic, and traffic control
13 devices shall be prohibited;
- 14 (8) "Office" means the Office ~~for the Blind~~ **of Vocational Rehabilitation**;
- 15 (9) "Monocular vision" means visual acuity that is 20/200 or better in only one (1) eye,
16 with or without corrective lenses;
- 17 (10) "Restricted out-of-state driver" means a person who has been issued, by another
18 state, a valid operator's license with a restriction requiring the use of a bioptic
19 telescopic device;
- 20 (11) "Vision specialist" means a licensed ophthalmologist or optometrist;
- 21 (12) "Visual acuity" means the measure of a person's visual acuity based on the Snellen
22 visual acuity scale; and
- 23 (13) "Visual field" means the area of physical space visible to the eye in a given fixed
24 position.
- 25 ➔Section 53. KRS 186.578 is amended to read as follows:
- 26 (1) Applicants accepted to participate in a certified driver training program shall meet
27 the following minimum vision requirements:

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

- 1 (5) An applicant who is a restricted out-of-state driver establishing residence in
2 Kentucky shall be required to take and pass a temporary instruction permit
3 examination before being eligible to take the operator's license examination. An
4 applicant who is a restricted out-of-state driver establishing residence in Kentucky
5 shall not be required to complete a certified driver training program but shall be
6 required to take and pass the visual examination outlined in subsection (3) of this
7 section before taking the operator's license examination.
- 8 (6) If an applicant or restricted out-of-state driver fails the operator's license
9 examination three (3) times, he or she shall not be eligible to retake the examination
10 until successfully completing additional training from a certified driver training
11 program and obtaining an affidavit from the program director or bioptic driving
12 instructor recommending that the applicant or restricted out-of-state driver be
13 allowed to retake the examination.
- 14 (7) The Office~~[for the Blind]~~ **of Vocational Rehabilitation in the Education and**
15 **Workforce Development Cabinet** shall promulgate administrative regulations in
16 accordance with KRS Chapter 13A to set standards for a certified driver training
17 program and to otherwise carry out the provisions of this section.
- 18 ➔Section 54. KRS 205.178 is amended to read as follows:
- 19 (1) At a regularly scheduled interval, each enrollment or benefit tracking agency
20 associated with the Medicaid program or the food stamps program of the cabinet
21 shall receive and review information from the Kentucky Lottery Corporation
22 concerning individuals enrolled as recipients in the Medicaid program or the food
23 stamps program that indicates a change in circumstances that may affect eligibility,
24 including but not limited to changes in income or resources.
- 25 (2) On at least a monthly basis, each enrollment or benefit tracking agency associated
26 with the Medicaid program or the food stamps program of the cabinet shall receive
27 and review information from the Vital Statistics Branch concerning individuals

1 enrolled in the Medicaid program or the food stamps program that indicates a
2 change in circumstances that may affect eligibility.

3 (3) On at least a quarterly basis, each enrollment or benefit tracking agency associated
4 with the Medicaid program or the food stamps program of the cabinet shall receive
5 and review information from the Kentucky Office~~[Division]~~ of Unemployment
6 Insurance concerning individuals enrolled in the Medicaid program or the food
7 stamps program that indicates a change in circumstances that may affect eligibility,
8 including but not limited to changes in employment or wages.

9 (4) On at least a quarterly basis, each enrollment or benefit tracking agency associated
10 with the Medicaid program or the food stamps program of the cabinet shall receive
11 and review information concerning individuals enrolled in the Medicaid program or
12 the food stamps program that indicates a change in circumstances that may affect
13 eligibility, including but not limited to potential changes in residency as identified
14 by out-of-state electronic benefit transfer transactions.

15 (5) (a) Notwithstanding any other provision of law to the contrary, each enrollment or
16 benefit tracking agency associated with the Medicaid program or the food
17 stamps program of the cabinet shall enter into a memorandum of
18 understanding with any department, agency, or division for information
19 detailed in this section.

20 (b) Notwithstanding any other provision of law to the contrary, any department,
21 agency, or division for information detailed in this section, including but not
22 limited to the Kentucky Lottery Corporation, the Vital Statistics Branch, the
23 Office~~[Division]~~ of Unemployment Insurance, and the Department for
24 Community Based Services, shall enter into any necessary memoranda of
25 understanding with the enrollment or benefit tracking agency associated with
26 the Medicaid program or the food stamps program requesting an agreement
27 pursuant to paragraph (a) of this subsection.

- 1 (6) Each enrollment or benefit tracking agency associated with the Medicaid program
2 or the food stamps program of the cabinet may contract with one (1) or more
3 independent vendors to provide additional data or information which may indicate a
4 change in circumstances that may affect eligibility.
- 5 (7) Each enrollment or benefit tracking agency associated with the Medicaid program
6 or the food stamps program of the cabinet shall explore joining any multistate
7 cooperative to identify individuals who are also enrolled in public assistance
8 programs outside of this state.
- 9 (8) If an enrollment or benefit tracking agency associated with the Medicaid program or
10 the food stamps program of the cabinet receives information concerning an
11 individual enrolled in the Medicaid program or the food stamps program that
12 indicates a change in circumstances that may affect eligibility, the enrollment or
13 benefit tracking agency or other appropriate agency shall review the individual's
14 case.
- 15 (9) The food stamps program of the cabinet shall not seek, apply for, accept, or renew
16 any waiver of requirements established under 7 U.S.C. sec. 2015(o) unless there is
17 an economic downturn resulting in an unemployment rate of ten percent (10%) or
18 more or the Cabinet for Health and Family Services determines an increase in the
19 unemployment rate in any particular county is severe enough to necessitate a
20 waiver.
- 21 (10) The cabinet shall promulgate all rules and regulations necessary for the purposes of
22 carrying out this section.
- 23 (11) On or before December 1 of each year, the Cabinet for Health and Family Services
24 shall submit a report relating to the number of individuals discovered utilizing
25 services inappropriately, the number of individuals who were removed from one (1)
26 or more public assistance programs as a result of a review pursuant to this section,
27 and the amount of public funds preserved in total and by public assistance program

1 and aggregated by prior years. This report shall be forwarded to the Interim Joint
2 Committees on Health and Welfare and Family Services and Appropriations and
3 Revenue of the Legislative Research Commission.

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

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

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

23 (3) The Office of General Counsel for the Labor Cabinet, the Office of Administrative
24 Services, and the Office of Inspector General are attached to the Office of the
25 Secretary of the Labor Cabinet.

26 (4) (a) The Office of General Counsel for the Labor Cabinet shall be headed by a
27 general counsel appointed by the secretary with approval by the Governor in

1 accordance with KRS 12.050 and 12.210.

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

5 (c) Each legal division shall be headed by a general counsel appointed by the
6 secretary with approval by the Governor in accordance with KRS 12.050 and
7 12.210.

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

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

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

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

19 (1) The secretary of the Education and Workforce Development Cabinet may enter into
20 arrangements with the appropriate agencies of other states or of the federal
21 government, or both, for the purpose of assisting the secretary and such agencies in
22 the payment of benefits and the furnishing of services to unemployed or
23 underemployed workers. Such arrangements may provide that the respective
24 agencies shall, for and on behalf of each other, act as agents in effecting
25 registrations for work, notices of unemployment, and any other certifications or
26 statements relating to a worker's claim for benefits; in making investigations, taking
27 depositions, holding hearings, or otherwise securing information relating to benefit

1 eligibility and payments; and in such other matters as the secretary considers
2 suitable in effectuating the purpose of these administrative arrangements.

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

9 (3) (a) The secretary shall participate in any arrangements for the payment of benefits
10 on the basis of combining an individual's wages and employment covered
11 under this chapter with his wages and employment covered under the
12 unemployment compensation laws of other states or the federal government
13 which are approved by the United States Secretary of Labor in consultation
14 with the state unemployment compensation agencies as reasonably calculated
15 to assure the prompt and full payment of benefits in such situations and which
16 include provisions for applying the base period of a single state law to a claim
17 involving the combining of an individual's wages and employment covered
18 under two (2) or more state unemployment compensation laws, and avoiding
19 the duplicate use of wages and employment by reason of such combining.
20 Reimbursements to another state or the federal government, paid from the
21 fund pursuant to this subsection, shall be deemed to be benefits for the
22 purposes of this chapter and charged to contributory employers' reserve
23 accounts and reimbursing employers' accounts in accordance with the
24 provisions of KRS 341.530(2) and (3) to the extent of calculations made on
25 wages paid during the base period established by KRS 341.090 and wages
26 paid after such base period; provided, however, benefits based on a period
27 previous to the base-wage period established by KRS 341.090 shall be

1 charged to the pooled account for contributing employers only. Provided, that
2 if the Secretary of Labor determines that the charging of reimbursements
3 provided above is inconsistent with the requirements of the Federal
4 Unemployment Tax Act, charges of such reimbursements shall then be made
5 in accordance with regulations prescribed by the secretary.

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

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

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

20 (a) Overpayments of unemployment benefits, as determined under this chapter,
21 shall be recoverable (after due notice and opportunity for appeal has been
22 provided to the claimant) by offset from unemployment benefits otherwise
23 payable under the unemployment compensation law of another state, in either
24 the current or any subsequent benefit year, in an amount equivalent to the
25 amount of overpayment determined under this chapter, provided the ~~{Office of~~
26 ~~Employment and Training,}~~ Department of Workforce Investment, certifies to
27 the other state the facts involved and that the claimant is liable to repay the

1 benefits and the office requests the other state to recover the benefits; and

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

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

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

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

24 (1) There is created within the State Treasury a special fund known as the service
25 capacity upgrade fund that shall be administered separate and apart from all public
26 money or funds of the state.

27 (2) The service capacity upgrade fund shall be used solely for acquisition and

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

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

22 (4) Beginning October 1, 2018, all rates otherwise established under KRS 341.270 and
23 341.272 shall be adjusted by subtracting seventy-five thousandths percent (0.075%)
24 from each rate, but only if the unemployment insurance trust fund balance exceeds
25 the balance of the trust fund as of December 31, 2017.

26 (5) For any calendar year in which all rates have been reduced in accordance with
27 subsection (4) of this section, all contributory employers shall pay into the service

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

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

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

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

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

24 (1) Any employing unit that becomes subject to this chapter within any calendar year
25 shall be considered a subject employer during the whole of that calendar year,
26 except as specifically provided elsewhere in this section or this chapter.

27 (2) Except as provided in subsections (3) and (5) of this section, a subject employer

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

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

22 (b) Any employing unit for which services that do not constitute covered
23 employment are performed may file with the office a written election that all
24 such services performed by individuals in its employ in one (1) or more
25 distinct establishments or places of business shall be considered to constitute
26 covered employment by a subject employer for all the purposes of this chapter
27 for not less than two (2) calendar years. Upon written approval of such

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

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

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

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

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

22 (1) Contributions shall accrue and become payable by each subject employer for each
23 calendar year in which he is subject to this chapter. Such contributions shall be
24 based upon wages paid during such calendar year for covered employment. Such
25 contributions shall become due and be paid at the offices of the Office of
26 Unemployment Insurance~~[Employment and Training]~~, Department of Workforce
27 Investment, in Frankfort by each subject employer to the office for the fund in

1 accordance with such regulations as the secretary prescribes, and shall not be
2 deducted in whole or in part from the wages of workers in his employ. In the
3 payment of any contributions, a fractional part of a cent shall be disregarded, unless
4 it amounts to one-half cent (\$0.005) or more, in which case it shall be increased to
5 one cent (\$0.01).

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

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

24 (b) To have work performed of a kind which is a customary or a recurrent part of
25 the work of the trade, business, occupation, or profession of such person or
26 entity, shall for the purposes of this subsection be deemed a contractor, and
27 such other person or entity a subcontractor. This subsection shall not apply to

1 the owner or lessee of land principally used for agriculture.

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

- 3 (1) Except as otherwise provided in this section, each employer's contribution rate shall
4 be three percent (3%). Effective for employers who become subject to this chapter
5 on or after January 1, 1999, except as otherwise provided in this section, each
6 employer's contribution rate shall be two and seven-tenths percent (2.7%).
- 7 (2) Except as otherwise provided in this section, no subject employer's contribution rate
8 shall be less than two and seven-tenths percent (2.7%), unless he has been an
9 employer subject to the provisions of this chapter for twelve (12) consecutive
10 calendar quarters ended as of the computation date. In any calendar year in which
11 the rate schedule prescribed in paragraph (3)(a) of this section is in effect, no
12 subject employer who was assigned an entry rate of three percent (3.0%) under the
13 provisions of subsection (1) of this section prior to January 1, 1999, shall have a
14 contribution rate less than two and eight hundred fifty-seven thousandths percent
15 (2.857%), unless subject to this chapter for the minimum time period specified
16 above.
- 17 (3) For the calendar year 2001 and each calendar year thereafter, employer contribution
18 rates shall be determined in accordance with "Table A" set out in subsection (4) of
19 this section. For each calendar year, the secretary shall determine the rate schedule
20 to be in effect based upon the "trust fund balance" as of September 30 of the
21 preceding year. If the "trust fund balance":
- 22 (a) Equals or exceeds one and eighteen hundredths percent (1.18%) of the total
23 wages paid in covered employment in the state during the state fiscal year
24 ended as of June 30 of that year, the rates listed in the "Trust Fund Adequacy
25 Rates" schedule of "Table A" shall be in effect;
- 26 (b) Equals or exceeds five hundred million dollars (\$500,000,000) but is less than
27 the amount required to effectuate the "Trust Fund Adequacy Rates" schedule

1 as provided in paragraph (a) of this subsection, the rates listed in "Schedule
2 A" of "Table A" shall be in effect;

3 (c) Equals or exceeds three hundred fifty million dollars (\$350,000,000) but is
4 less than five hundred million dollars (\$500,000,000), the rates listed in
5 "Schedule B" of "Table A" shall be in effect;

6 (d) Equals or exceeds two hundred fifty million dollars (\$250,000,000) but is less
7 than three hundred fifty million dollars (\$350,000,000), the rates listed in
8 "Schedule C" of "Table A" shall be in effect;

9 (e) Equals or exceeds one hundred fifty million dollars (\$150,000,000) but is less
10 than two hundred fifty million dollars (\$250,000,000), the rates listed in
11 "Schedule D" of "Table A" shall be in effect; and

12 (f) Is less than one hundred fifty million dollars (\$150,000,000), the rates listed in
13 "Schedule E" of "Table A" shall be in effect.

14 (4) For the calendar year 1982 and each calendar year thereafter, contribution rates shall
15 be determined upon the basis of an individual employer's reserve ratio as of the
16 computation date and the schedule of rates established under subsection (3) of this
17 section. Except as otherwise provided in this section, the contribution rate for each
18 subject employer for the calendar year immediately following the computation date
19 shall be the rate in that "Schedule" of "Table A," as set out below, effective with
20 respect to the calendar year, which appears on the same line as his reserve ratio as
21 shown in the "Employer Reserve Ratio" column of the same table.

22 TABLE A

23 Rate Schedule

24	Employer Trust	A	B	C	D	E
25	Reserve Fund					
26	Ratio Adequacy					
27	Rates					

1	8.0% and							
2	over	0.000%	0.30%	0.40%	0.50%	0.60%	1.00%	
3	7.0% but							
4	under 8.0%	0.000%	0.40%	0.50%	0.60%	0.80%	1.05%	
5	6.0% but							
6	under 7.0%	0.008%	0.50%	0.60%	0.70%	0.90%	1.10%	
7	5.0% but							
8	under 6.0%	0.208%	0.70%	0.80%	1.00%	1.20%	1.40%	
9	4.6% but							
10	under 5.0%	0.508%	1.00%	1.20%	1.40%	1.60%	1.80%	
11	4.2% but							
12	under 4.6%	0.808%	1.30%	1.50%	1.80%	2.10%	2.30%	
13	3.9% but							
14	under 4.2%	1.008%	1.50%	1.70%	2.20%	2.40%	2.70%	
15	3.6% but							
16	under 3.9%	1.308%	1.80%	1.80%	2.40%	2.60%	3.00%	
17	3.2% but							
18	under 3.6%	1.508%	2.00%	2.10%	2.50%	2.70%	3.10%	
19	2.7% but							
20	under 3.2%	1.608%	2.10%	2.30%	2.60%	2.80%	3.20%	
21	2.0% but							
22	under 2.7%	1.708%	2.20%	2.50%	2.70%	2.90%	3.30%	
23	1.3% but							
24	under 2.0%	1.808%	2.30%	2.60%	2.80%	3.00%	3.40%	
25	0.0% but							
26	under 1.3%	1.908%	2.40%	2.70%	2.90%	3.10%	3.50%	
27	-0.5% but							

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

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

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

26 (b) "Total wages" means all remuneration for services, as defined in KRS
27 341.030(1) to (7), paid by subject employers;

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

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

- 14 (1) Contributions unpaid on the date on which they are due and payable, as prescribed
15 by the secretary, shall be subject to interest at the rate of one and five-tenths percent
16 (1.5%) per month or fraction thereof, not to exceed ninety percent (90%) of the
17 amount of such contributions, from and after such date until payment is received by
18 the Office of Unemployment Insurance~~Employment and Training~~, Department of
19 Workforce Investment~~],~~ irrespective of whether such delinquency has been reduced
20 to a judgment or not as provided in subsection (2) of this section or is the subject of
21 an administrative appeal or court action. The interest charged for a month, in which
22 the unpaid contributions remain unpaid, shall be considered accrued and therefore
23 due and owing on the first day after the last day of the month in which the balance is
24 due. Such interest shall be paid into the unemployment compensation
25 administration fund.
- 26 (2) If, after due notice, any subject employer defaults in any payment of contributions,
27 interest or penalties thereon, the amount due shall be collected by a civil action

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

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

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

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

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

22 (a) With respect to which a strike or other bona fide labor dispute which caused
 23 him to leave or lose his employment is in active progress in the establishment
 24 in which he is or was employed, except that benefits may be paid unless the
 25 employer notifies the Office of Unemployment Insurance~~Employment and~~
 26 ~~Training~~, Department of Workforce Investment, in writing within seven (7)
 27 days after the beginning of such alleged strike or labor dispute of the alleged

1 existence of such strike or labor dispute. For the purpose of this subsection, a
2 lockout shall not be deemed to be a strike or a bona fide labor dispute and no
3 worker shall be denied benefits by reason of a lockout;

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

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

22 2. Which, when based on service other than as defined in subparagraph 1.
23 of this paragraph, in an institution of higher education or an educational
24 institution, as defined in KRS 341.067(2) or (4), begins during the
25 period between two (2) successive academic years or terms, if the
26 worker performs such services in the first of such academic years or
27 terms and there is a reasonable assurance that the worker will perform

1 such services in the second of such academic years or terms; except that
2 if benefits are denied to any worker under this paragraph and such
3 worker was not offered an opportunity to perform such services for such
4 institution of higher education or such educational institution for the
5 second of such academic years or terms, such worker shall be entitled to
6 a retroactive payment of benefits for each week for which the worker
7 filed a timely claim for benefits and for which benefits were denied
8 solely by reason of this paragraph; or

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

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

27 Notwithstanding any other provision of this paragraph, any benefits paid to a

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

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

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

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

24 (b) Any data or information required of individuals applying for benefits to
25 determine whether benefits are not payable to them because of their alien
26 status shall be uniformly required from all applicants for benefits.

27 (c) In the case of an individual whose application for benefits would otherwise be

1 approved, no determination that benefits to such individual are not payable
2 because of his alien status shall be made except upon a preponderance of the
3 evidence.

4 →Section 63. KRS 341.410 is amended to read as follows:

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

15 →Section 64. KRS 341.415 is amended to read as follows:

16 (1) (a) Any person who has received any sum as benefits under this chapter or any
17 other state's unemployment insurance statutes or any United States
18 Department of Labor unemployment insurance benefit program, providing the
19 secretary has signed a reciprocal agreement with such other state or the United
20 States Department of Labor as provided in KRS 341.145, while any condition
21 for the receipt of such benefits was not fulfilled in his case, or while he was
22 disqualified from receiving benefits, or if he has received benefits in weeks for
23 which he later receives a back pay award, shall, in the discretion of the
24 secretary, either have such sum deducted from any future benefits payable to
25 him under this chapter or repay the Office of Unemployment
26 Insurance~~[Employment and Training]~~, Department of Workforce Investment,
27 for the fund a sum equal to the amount so received by him.

- 1 (b) If after due notice, the recipient of such sum fails to remit or arrange for
2 remittance of the sum, the sum may be collected in the manner provided in
3 KRS 341.300(2) for collection of past-due contributions and any sums so
4 collected shall be credited to the pooled account or the appropriate
5 reimbursing employer account.
- 6 (c) The appropriate reimbursing employer account shall not receive credit for
7 sums collected under this subsection or KRS 341.550(2)(b) if a determination
8 has been made that an improper benefit payment established after October 21,
9 2013, was due to the reimbursing employer, or an agent of the employer, in
10 accordance with the provisions of KRS 341.530(4)(a) and (b). The sums
11 collected shall be credited to the pooled account.
- 12 (d) If any benefit was paid as a result of office error as defined by administrative
13 regulation, there shall be no recoupment or recovery of an improperly paid
14 benefit, except by deduction from any future benefits payable to him under
15 this chapter. For purposes of this section, overpayments as a result of a
16 reversal of entitlement to benefits in the appeal or review process shall not be
17 construed to be the result of office error.
- 18 (2) At or after the commencement of an action under subsection (1) of this section,
19 attachment may be had against property of the recipient of improperly paid benefits
20 in the manner provided in KRS 341.300(3).
- 21 (3) A lien on a parity with state, county, and municipal ad valorem tax liens, is hereby
22 created in favor of the office upon all property of any recipient of improperly paid
23 benefits. This lien shall be for a sum equal to the amount of the overpayment finally
24 determined and shall continue until the amount of the overpayment plus any
25 subsequent assessment of additional improperly paid benefits, penalty, interest, and
26 fees are fully paid. The lien shall commence from such time as the recipient has
27 exhausted or abandoned the appeal procedure set forth in this chapter and the

1 amount of the overpayment is finally fixed. A notice of lien may be filed in the
2 same manner as that provided for in KRS 341.310.

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

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

21 (6) A recipient of benefits paid as a result of a false statement, misrepresentation, or
22 concealment of material information by the recipient shall be assessed a fifteen
23 percent (15%) penalty of the amount of improperly paid benefits. The penalty under
24 this subsection shall be collected in the same manner as improperly paid benefits in
25 this section and paid into the unemployment trust fund.

26 (7) The deduction from future benefits specified in subsection (1) of this section shall
27 be limited to twenty-five percent (25%) of the benefit amount otherwise payable

1 under this chapter unless the overpayment resulted from a backpay award, false
2 statement, misrepresentation, or concealment of material information by a recipient
3 of benefits. In these instances, the rate of deduction shall be one hundred percent
4 (100%). The rate of deduction from benefits payable by another state or the United
5 States of America shall be determined by the applicable state or federal statute.

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

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

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

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

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

24 (1) No agreement by a worker to waive, release, or commute his rights to benefits or
25 any other rights under this chapter shall be valid. No agreement by any worker to
26 pay any portion of a subject employer's contributions, required under this chapter
27 from such subject employer, shall be valid. No subject employer shall directly or

1 indirectly make or require or accept any deductions from wages to finance the
2 subject employer's contributions required of him. In cases involving awards to a
3 worker by an arbitrator, court, or other administrative body or mediator, the
4 secretary may require the employer to withhold benefits paid under this chapter
5 from the award and pay the amount withheld into the unemployment insurance trust
6 fund. All subject employers are required to notify the Office of Unemployment
7 Insurance~~[Employment and Training]~~, Department of Workforce Investment, prior
8 to paying any back pay award.

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

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

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

25 (4) No assignment, pledge, or encumbrance of any right to benefits due or payable
26 under this chapter shall be valid; and such rights to benefits shall be exempt from
27 levy, execution, attachment, or any other remedy for the collection of debt. Benefits

1 received by any worker, as long as they are not mingled with other funds of the
2 recipient, shall be exempt from any remedy for the collection of all debts except
3 debts incurred for necessities furnished to such worker or his spouse or dependents
4 during the time such worker was unemployed. No waiver of any exemption
5 provided for in this subsection shall be valid.

6 (5) The provisions of this section shall not be applicable to child support deductions
7 made in accordance with KRS 341.392 and withholding for federal and state
8 income tax in accordance with KRS 341.395.

9 ➔Section 67. KRS 341.530 is amended to read as follows:

10 (1) The Office of Unemployment Insurance~~[Employment and Training]~~, Department
11 of Workforce Investment, shall maintain a reserve account for each subject
12 employer making contributions to the fund and a reimbursing employer account for
13 each subject employer making payment in lieu of contributions, and shall, except as
14 provided in KRS 341.590, credit to such account the total amount of all
15 contributions or benefit reimbursement paid by the employer on his own behalf.
16 Nothing in this section or elsewhere in this chapter shall be construed to grant any
17 employer or individual who is or was in his employ prior claims or rights to the
18 amounts paid by him into the fund.

19 (2) Except as provided in subsection (3) of this section, all regular benefits paid to an
20 eligible worker in accordance with KRS 341.380 plus the extended benefits paid in
21 accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs
22 (a) and (b) of this subsection, shall be charged against the reserve account or
23 reimbursing employer account of his most recent employer. No employer shall be
24 deemed to be the most recent employer unless the eligible worker to whom benefits
25 are payable shall have worked for such employer in each of ten (10) weeks whether
26 or not consecutive back to the beginning of the worker's base period.

27 (a) Subject employers, which are not governmental entities as defined in KRS

1 341.069, shall be charged one-half (1/2) of the extended benefits paid in
2 accordance with KRS 341.700 to 341.740; and

3 (b) Subject employers which are governmental entities, as defined in KRS
4 341.069, shall be charged for all extended benefits paid in accordance with
5 KRS 341.700 to 341.740 for compensable weeks occurring on or after January
6 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable
7 weeks occurring prior to such date.

8 (3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an
9 eligible worker and chargeable to a contributing employer's reserve account under
10 such subsection shall be charged against the pooled account if such worker was
11 discharged by such employer for misconduct connected with his most recent work
12 for such employer, voluntarily left his most recent work with such employer without
13 good cause attributable to the employment, or the employer has continued to
14 provide part-time employment and wages, without interruption, to the same extent
15 that was provided from the date of hire, and the employer within a reasonable time,
16 as prescribed by regulation of the secretary, notifies the office, in writing, of the
17 alleged voluntary quitting, discharge for misconduct or continuing part-time
18 employment; provided, however, that no employer making payments to the fund in
19 lieu of contributions shall be relieved of charges by reason of this subsection.

20 (4) Notwithstanding the provisions of subsection (3) of this section, no contributing
21 employer's reserve account shall be relieved of any charges for benefits relating to
22 an improper benefit payment to a worker established after October 21, 2013, if:

23 (a) The improper benefit payment was made because the employer, or an agent of
24 the employer, was at fault for failing to respond timely or adequately to the
25 request of the secretary for information relating to a claim for benefits; and

26 (b) The employer, or an agent of the employer, has a pattern of failing to respond
27 timely or adequately to requests under paragraph (a) of this subsection. For

1 purposes of this paragraph, a "pattern of failing" means at least six (6) failures
2 occur in a calendar year or the failure to respond to two percent (2%) of such
3 requests in a calendar year, whichever is greater.

4 (5) Any determination under subsection (4) of this section shall be transmitted to the
5 last known physical or electronic address provided by the employer and may be
6 appealed in accordance with the provisions of KRS 341.420(2).

7 (6) Each subject employer's reserve account or reimbursing account shall, unless
8 terminated as of the computation date (as defined in subsection (5) of KRS
9 341.270), be charged with all benefits paid to eligible workers which are chargeable
10 to such reserve account or reimbursing account under subsection (2) of this section.
11 A subject employer's reserve account or reimbursing account shall be deemed to be
12 terminated if he has ceased to be subject to this chapter, and his account has been
13 closed and any balance remaining therein has been transferred to the fund's pooled
14 account or to a successor's account as provided in KRS 341.540 or has been
15 refunded if the employer is a reimbursing employer.

16 (7) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal
17 Revenue Code sec. 501(c)(3) organizations may jointly request the secretary to
18 establish a group reserve account or reimbursing account for such nonprofit
19 organizations. Two (2) or more governmental entities may jointly request the
20 secretary to establish a group reserve account or reimbursing account, and once
21 established, such account shall remain in effect at least two (2) calendar years and
22 thereafter until either dissolved at the discretion of the secretary or upon filing
23 application for dissolution by the group members. Each member of a group shall be
24 jointly and severally liable for all payments due under this chapter from each or all
25 of such group members. The secretary shall prescribe such procedures as he deems
26 necessary for the establishment, maintenance, and dissolution of a group reserve
27 account or reimbursing account.

1 (8) Any subject contributing employer may at any time on or before December 31,
2 2011, make voluntary payments to the fund, additional to the contributions required
3 under KRS 341.260 and 341.270. Effective January 1, 2012, any subject
4 contributing employer with a negative reserve account balance may make voluntary
5 payments to the fund every other calendar year, in addition to the contributions
6 required under KRS 341.260 and 341.270. Notwithstanding any other provision of
7 this chapter, contributions paid on or before the computation date and voluntary
8 payments made within twenty (20) days following the mailing of notices of new
9 rates shall be credited to an employer's reserve account as of the computation date,
10 provided no voluntary payments shall be used in computing an employer's rate
11 unless the payment is made prior to the expiration of one hundred and twenty (120)
12 days after the beginning of the year for which the rate is effective. Voluntary
13 payments by any employer shall not exceed any negative balance they may have in
14 their reserve account as of the computation date. Any employer who is delinquent in
15 the payment of contributions, penalties, or interest as of the computation date shall
16 be entitled to make voluntary payments only after the amount of the delinquency is
17 paid in full.

18 ➔Section 68. KRS 341.540 is amended to read as follows:

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

20 (a) "Substantially common" or "substantially the same" means that there is
21 identifiable or demonstrative commonality or similarity of ownership, familial
22 relationships, principals or corporate officers, day-to-day operations, assets
23 and liabilities, and stated business;

24 (b) "Trade" or "business" includes but is not limited to a commercial enterprise or
25 establishment; any entity engaged in the supplying, production, or
26 manufacturing of goods, commodities, or services; any entity engaged in
27 commerce, sale for profit, or the providing of goods, personnel, or services;

- 1 (c) "Knowingly" means having actual knowledge of, or acting with deliberate
2 ignorance or disregard for, the prohibition involved;
- 3 (d) "Violates" or "attempts to violate" includes, but is not limited to, intended
4 evasion, misrepresentation, or willful nondisclosure; and
- 5 (e) "Person" has the same meaning as in Section 7701(a)(1) of the Internal
6 Revenue Code.
- 7 (2) (a) For the purpose of this chapter, if a subject employer transfers all or part of its
8 trade or business, the acquiring employing unit shall be deemed a successor if
9 the transfer is in accordance with administrative regulations promulgated by
10 the secretary, or if there is substantially common ownership, management, or
11 control of the subject employer and employing unit. If an employing unit is
12 deemed a successor, the transferring employing unit shall be deemed a
13 predecessor.
- 14 (b) For the purpose of this chapter, if a nonsubject employer acquires all or part of
15 the trade or business of a subject employer, the nonsubject employer shall file
16 an application with the Office of Unemployment Insurance ~~Employment and~~
17 ~~Training~~, Department of Workforce Investment to establish an
18 unemployment reserve account within forty-five (45) days of employing
19 personnel. The application will be considered and processed in accordance
20 with administrative regulations promulgated by the secretary and shall require
21 information necessary to determine whether the nonsubject employer is a
22 successor of the subject employer and to establish an initial unemployment
23 contribution rate for the employer. Factors to be considered in the
24 determination of successorship and the fixing of the initial rate shall include
25 but not be limited to the nonsubject employer's prior unemployment claims
26 history, benefit charges, historical rate charges, and payment penalties
27 assessed in the previous five (5) years, in addition to the factors set forth in

1 subsection (6)(b) of this section. After consideration of these factors, and
2 others that the applicant may submit in justification of an initial rate
3 determination, the secretary shall set an appropriate contribution rate. Any
4 determinations of initial unemployment contribution rates made pursuant to
5 this subsection shall not be effective prior to January 1, 2018.

6 (3) (a) Notwithstanding subsection (2)(b) of this section, any successor to the trade or
7 business of a subject employer shall assume the resources and liabilities of the
8 predecessor's reserve account, including interest, and shall continue the
9 payment of all contributions and interest due under this chapter, except that
10 the successor shall not be required to assume the liability of any delinquent
11 contributions and interest of a predecessor or predecessors unless the cabinet
12 notifies the successor of the delinquency within six (6) months after the
13 department has notice of the succession; and

14 (b) Any nonsubject employer that is deemed a successor in whole or part shall be
15 allowed to make a one (1) time voluntary payment to pay off or reduce the
16 negative reserve assumed from the predecessor. This payment shall be made
17 within sixty (60) days of receipt of the first notice of a negative predecessor
18 reserve account. This one (1) time voluntary payment cannot exceed the
19 amount of negative reserve assumed by the successor.

20 (4) The liability for delinquent contributions and interest imposed upon the successor
21 by subsection (3) of this section shall be secondary to the liability of the predecessor
22 or predecessors, and if the delinquency has been reduced to judgment, the order of
23 execution on the judgment shall be as follows:

24 (a) Against the assets, both real and personal, of the predecessor or predecessors;

25 (b) Against the assets, both real and personal, of the business acquired; and

26 (c) Against the assets, both real and personal, of the successor or acquirer.

27 (5) (a) Notwithstanding the provisions of subsection (3) of this section, any successor

1 to a portion of the trade or business of a subject employer, who is, or by
2 reason of the transfer becomes, a subject employer, shall assume the resources
3 and liabilities of the predecessor's reserve account in proportion to the
4 percentage of the payroll or employees assignable to the transferred portion. In
5 calculating the transferred portion, the secretary shall utilize the last four (4)
6 calendar quarters preceding the date of transfer for workers employed by the
7 successor subsequent to that date. The taxable payroll, benefit charges and the
8 potential benefit charges shall be assumed by the successors in a like
9 proportion.

10 (b) Notwithstanding the provisions of paragraph (a) of this subsection, if any
11 employing unit succeeds to a portion of the trade or business of another
12 employing unit; becomes, by reason of that succession, a subject employer
13 with substantially the same ownership, management, or control as the
14 predecessor employing unit; and lays off or terminates more than one-half
15 (1/2) of the original employees transferred within six (6) months of the date of
16 transfer; then the succession and creation of the new employing unit shall be
17 voided, and the benefits attributable to the lay-offs or terminations shall be
18 charged to the reserve account of the original employing unit.

19 (6) (a) The contribution rate of a successor in whole or in part, which was a subject
20 employer prior to succession, shall not be affected by the transfer of the
21 reserve account for the remainder of the rate year in which succession
22 occurred; except that the rate of the successor shall be recalculated and made
23 effective upon the first day of the calendar quarter immediately following the
24 date of the transfer if there is substantially common ownership, management,
25 or control of the predecessor and successor.

26 (b) The contribution rate of a successor in whole or in part, which was not a
27 subject employer prior to succession, shall be determined by a review of the

1 application required by subsection (2)(b) of this section, except if the secretary
2 finds, after a thorough investigation based on the use of objective factors,
3 including but not limited to:

- 4 1. The cost of acquiring the business;
- 5 2. How long the original business enterprise was continued; and
- 6 3. Whether a substantial number of new employees were hired for
7 performance of duties unrelated to the business activity prior to
8 acquisition;

9 that the succession was solely for the purpose of obtaining a rate lower than
10 that prescribed in KRS 341.270(1) and 341.272 for a new employing unit,
11 then the unemployment experience of the predecessor shall not be transferred,
12 the rate for a new employing unit shall be assigned, and the employing unit
13 shall be otherwise deemed a successor for the purpose of KRS 341.070(7) and
14 subsection (3) of this section.

15 (c) The contribution rate for a successor which becomes a subject employer
16 through the simultaneous transfer, either in whole or in part, of two (2) or
17 more predecessor reserve accounts shall be the rate determined in accordance
18 with the provisions of KRS 341.270, by combining the reserve accounts
19 succeeded to as of the computation date for determining rates for the calendar
20 year in which succession occurred.

21 (d) The contribution rate of a successor which succeeds, either in whole or in part,
22 to a predecessor's reserve account after a computation date, but prior to the
23 beginning of the calendar year immediately following that computation date,
24 shall be the rate determined in accordance with KRS 341.270, by effecting the
25 transfer of the reserve account as of the computation date immediately
26 preceding the date of succession.

27 (7) Notwithstanding KRS 341.270, the contribution rate for an employing unit that

1 knowingly violates or attempts to violate the provisions of this section or any other
2 provision of the chapter related to determining the assignment of a contribution rate
3 shall be the highest rate assignable under this chapter for the calendar year during
4 which the violation or attempted violation occurred and the three (3) calendar years
5 immediately following that year. If that employer's rate is already at the highest
6 assignable rate, or if the amount of increase in the employer's rate would be less
7 than an additional two percent (2%) for that year, then a penalty rate of
8 contributions of an additional two percent (2%) of taxable wages shall be imposed
9 for each year.

10 (8) In addition to the penalties prescribed in subsection (7) of this section and KRS
11 341.990(9), any person who knowingly violates this section shall be subject to the
12 penalties stipulated under KRS 341.990.

13 (9) (a) The secretary shall establish procedures to identify the transfer of a business
14 for purposes of this section.

15 (b) The secretary shall have the authority and discretion to set an initial
16 contribution rate upon the providing of justification by a subject employer and
17 consideration of relevant factors, including but not limited to the factors set
18 forth in subsections (2) and (6)(a) of this section.

19 ➔Section 69. KRS 341.990 is amended to read as follows:

20 (1) Except as otherwise provided in subsection (11) of this section, any employee of
21 any state agency who violates any of the provisions of KRS 341.110 to 341.230
22 shall be guilty of a Class B misdemeanor.

23 (2) Any person subpoenaed to appear and testify or produce evidence in an inquiry,
24 investigation, or hearing conducted under this chapter who fails to obey the
25 subpoena shall be guilty of a Class B misdemeanor.

26 (3) Any subject employer, or officer or agent of a subject employer, who violates
27 subsection (1) of KRS 341.470 shall be guilty of a Class A misdemeanor.

- 1 (4) Any person who violates subsection (2) of KRS 341.470 shall be guilty of a Class A
2 misdemeanor.
- 3 (5) Any person who knowingly makes a false statement or representation of a material
4 fact or knowingly fails to disclose a material fact to the secretary to obtain or
5 increase any benefit under this chapter or under an employment security law of any
6 other state, or of the federal government, either for himself or for any other person,
7 business entity, or organization shall be guilty of a Class A misdemeanor unless the
8 value of the benefits procured or attempted to be procured is one hundred dollars
9 (\$100) or more, in which case he shall be guilty of a Class D felony.
- 10 (6) (a) Any person who knowingly makes a false statement or representation, or who
11 knowingly fails to disclose a material fact to prevent or reduce the payment of
12 benefits to any worker entitled thereto, or to avoid becoming or remaining
13 subject to this chapter, or to avoid or reduce any payment required of an
14 employing unit under this chapter shall be guilty of a Class A misdemeanor
15 unless the liability avoided or attempted to be avoided is one hundred dollars
16 (\$100) or more, in which case he shall be guilty of a Class D felony.
- 17 (b) Any person who willfully fails or refuses to furnish any reports required, or to
18 produce or permit the inspection or copying of records required in this chapter
19 shall be guilty of a Class B misdemeanor. Each such false statement,
20 representation or failure and each day of failure or refusal shall constitute a
21 separate offense.
- 22 (7) In any prosecution for the violation of subsection (5) or (6) of this section, it shall
23 be a defense if the person relied on the advice of an employee or agent of the Office
24 of Unemployment Insurance~~[Employment and Training]~~, Department of
25 Workforce Investment.
- 26 (8) Any person who willfully violates any provision of this chapter or any rule or
27 regulation under it, the violation of which is made unlawful or the observance of

1 which is required under the terms of this chapter, and for which no specific penalty
2 is prescribed in this chapter or in any other applicable statute, shall be guilty of a
3 violation. Each day the violation continues shall constitute a separate offense.

4 (9) In addition to the higher rates imposed under KRS 341.540(7), any person, whether
5 or not an employing unit, who knowingly advises or assists an employing unit in the
6 violation or attempted violation of KRS 341.540 or any other provision of this
7 chapter related to determining the assignment of a contribution rate shall be subject
8 to a civil monetary penalty of not less than five thousand dollars (\$5,000).

9 (10) Proceeds from all penalties imposed under subsection (9) of this section and KRS
10 341.540 shall be deposited in the unemployment compensation administration
11 account and shall be expended solely for the cost of administration of this chapter
12 consistent with KRS 341.240.

13 (11) Any person who violates the confidentiality provision in KRS 341.190(4) shall be
14 guilty of a Class A misdemeanor.

15 ➔Section 70. KRS 342.0011 is amended to read as follows:

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

17 (1) "Injury" means any work-related traumatic event or series of traumatic events,
18 including cumulative trauma, arising out of and in the course of employment which
19 is the proximate cause producing a harmful change in the human organism
20 evidenced by objective medical findings. "Injury" does not include the effects of the
21 natural aging process, and does not include any communicable disease unless the
22 risk of contracting the disease is increased by the nature of the employment.
23 "Injury" when used generally, unless the context indicates otherwise, shall include
24 an occupational disease and damage to a prosthetic appliance, but shall not include
25 a psychological, psychiatric, or stress-related change in the human organism, unless
26 it is a direct result of a physical injury;

27 (2) "Occupational disease" means a disease arising out of and in the course of the

- 1 employment;
- 2 (3) An occupational disease as defined in this chapter shall be deemed to arise out of
3 the employment if there is apparent to the rational mind, upon consideration of all
4 the circumstances, a causal connection between the conditions under which the
5 work is performed and the occupational disease, and which can be seen to have
6 followed as a natural incident to the work as a result of the exposure occasioned by
7 the nature of the employment and which can be fairly traced to the employment as
8 the proximate cause. The occupational disease shall be incidental to the character of
9 the business and not independent of the relationship of employer and employee. An
10 occupational disease need not have been foreseen or expected but, after its
11 contraction, it must appear to be related to a risk connected with the employment
12 and to have flowed from that source as a rational consequence;
- 13 (4) "Injurious exposure" shall mean that exposure to occupational hazard which would,
14 independently of any other cause whatsoever, produce or cause the disease for
15 which the claim is made;
- 16 (5) "Death" means death resulting from an injury or occupational disease;
- 17 (6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the
18 liability of employers under this chapter and includes a self-insurer;
- 19 (7) "Self-insurer" is an employer who has been authorized under the provisions of this
20 chapter to carry his own liability on his employees covered by this chapter;
- 21 (8) "Department" means the Department of Workers' Claims in the Labor Cabinet;
- 22 (9) "Commissioner" means the commissioner of the Department of Workers' Claims
23 under the direction and supervision of the secretary of the Labor Cabinet;
- 24 (10) "Board" means the Workers' Compensation Board;
- 25 (11) (a) "Temporary total disability" means the condition of an employee who has not
26 reached maximum medical improvement from an injury and has not reached a
27 level of improvement that would permit a return to employment;

- 1 (b) "Permanent partial disability" means the condition of an employee who, due to
2 an injury, has a permanent disability rating but retains the ability to work; and
- 3 (c) "Permanent total disability" means the condition of an employee who, due to
4 an injury, has a permanent disability rating and has a complete and permanent
5 inability to perform any type of work as a result of an injury, except that total
6 disability shall be irrebuttably presumed to exist for an injury that results in:
- 7 1. Total and permanent loss of sight in both eyes;
 - 8 2. Loss of both feet at or above the ankle;
 - 9 3. Loss of both hands at or above the wrist;
 - 10 4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at
11 or above the wrist;
 - 12 5. Permanent and complete paralysis of both arms, both legs, or one (1)
13 arm and one (1) leg;
 - 14 6. Incurable insanity or imbecility; or
 - 15 7. Total loss of hearing;
- 16 (12) "Income benefits" means payments made under the provisions of this chapter to the
17 disabled worker or his dependents in case of death, excluding medical and related
18 benefits;
- 19 (13) "Medical and related benefits" means payments made for medical, hospital, burial,
20 and other services as provided in this chapter, other than income benefits;
- 21 (14) "Compensation" means all payments made under the provisions of this chapter
22 representing the sum of income benefits and medical and related benefits;
- 23 (15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical
24 rehabilitation services, medicines, and fittings for artificial or prosthetic devices;
- 25 (16) "Person" means any individual, partnership, limited partnership, limited liability
26 company, firm, association, trust, joint venture, corporation, or legal representative
27 thereof;

- 1 (17) "Wages" means, in addition to money payments for services rendered, the
2 reasonable value of board, rent, housing, lodging, fuel, or similar advantages
3 received from the employer, and gratuities received in the course of employment
4 from persons other than the employer as evidenced by the employee's federal and
5 state tax returns;
- 6 (18) "Agriculture" means the operation of farm premises, including the planting,
7 cultivation, producing, growing, harvesting, and preparation for market of
8 agricultural or horticultural commodities thereon, the raising of livestock for food
9 products and for racing purposes, and poultry thereon, and any work performed as
10 an incident to or in conjunction with the farm operations, including the sale of
11 produce at on-site markets and the processing of produce for sale at on-site markets.
12 It shall not include the commercial processing, packing, drying, storing, or canning
13 of such commodities for market, or making cheese or butter or other dairy products
14 for market;
- 15 (19) "Beneficiary" means any person who is entitled to income benefits or medical and
16 related benefits under this chapter;
- 17 (20) "United States," when used in a geographic sense, means the several states, the
18 District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the
19 territories of the United States;
- 20 (21) "Alien" means a person who is not a citizen, a national, or a resident of the United
21 States or Canada. Any person not a citizen or national of the United States who
22 relinquishes or is about to relinquish his residence in the United States shall be
23 regarded as an alien;
- 24 (22) "Insurance carrier" means every insurance carrier or insurance company authorized
25 to do business in the Commonwealth writing workers' compensation insurance
26 coverage and includes the Kentucky Employers Mutual Insurance Authority and
27 every self-insured group operating under the provisions of this chapter;

1 (23) (a) "Severance or processing of coal" means all activities performed in the
2 Commonwealth at underground, auger, and surface mining sites; all activities
3 performed at tipple or processing plants that clean, break, size, or treat coal;
4 and all activities performed at coal loading facilities for trucks, railroads, and
5 barges. Severance or processing of coal shall not include acts performed by a
6 final consumer if the acts are performed at the site of final consumption.

7 (b) "Engaged in severance or processing of coal" shall include all individuals,
8 partnerships, limited partnerships, limited liability companies, corporations,
9 joint ventures, associations, or any other business entity in the Commonwealth
10 which has employees on its payroll who perform any of the acts stated in
11 paragraph (a) of this subsection, regardless of whether the acts are performed
12 as owner of the coal or on a contract or fee basis for the actual owner of the
13 coal. A business entity engaged in the severance or processing of coal,
14 including but not limited to administrative or selling functions, shall be
15 considered wholly engaged in the severance or processing of coal for the
16 purpose of this chapter. However, a business entity which is engaged in a
17 separate business activity not related to coal, for which a separate premium
18 charge is not made, shall be deemed to be engaged in the severance or
19 processing of coal only to the extent that the number of employees engaged in
20 the severance or processing of coal bears to the total number of employees.
21 Any employee who is involved in the business of severing or processing of
22 coal and business activities not related to coal shall be prorated based on the
23 time involved in severance or processing of coal bears to his total time;

24 (24) "Premium" for every self-insured group means any and all assessments levied on its
25 members by such group or contributed to it by the members thereof. For special
26 fund assessment purposes, "premium" also includes any and all membership dues,
27 fees, or other payments by members of the group to associations or other entities

1 used for underwriting, claims handling, loss control, premium audit, actuarial, or
2 other services associated with the maintenance or operation of the self-insurance
3 group;

4 (25) (a) "Premiums received" for policies effective on or after January 1, 1994, for
5 insurance companies means direct written premiums as reported in the annual
6 statement to the Department of Insurance by insurance companies, except that
7 "premiums received" includes premiums charged off or deferred, and, on
8 insurance policies or other evidence of coverage with provisions for
9 deductibles, the calculated cost for coverage, including experience
10 modification and premium surcharge or discount, prior to any reduction for
11 deductibles. The rates, factors, and methods used to calculate the cost for
12 coverage under this paragraph for insurance policies or other evidence of
13 coverage with provisions for deductibles shall be the same rates, factors, and
14 methods normally used by the insurance company in Kentucky to calculate the
15 cost for coverage for insurance policies or other evidence of coverage without
16 provisions for deductibles, except that, for insurance policies or other
17 evidence of coverage with provisions for deductibles effective on or after
18 January 1, 1995, the calculated cost for coverage shall not include any
19 schedule rating modification, debits, or credits. For policies with provisions
20 for deductibles with effective dates on or after January 1, 1995, assessments
21 shall be imposed on premiums received as calculated by the deductible
22 program adjustment. The cost for coverage calculated under this paragraph by
23 insurance companies that issue only deductible insurance policies in Kentucky
24 shall be actuarially adequate to cover the entire liability of the employer for
25 compensation under this chapter, including all expenses and allowances
26 normally used to calculate the cost for coverage. For policies with provisions
27 for deductibles with effective dates of May 6, 1993, through December 31,

1 1993, for which the insurance company did not report premiums and remit
2 special fund assessments based on the calculated cost for coverage prior to the
3 reduction for deductibles, "premiums received" includes the initial premium
4 plus any reimbursements invoiced for losses, expenses, and fees charged
5 under the deductibles. The special fund assessment rates in effect for
6 reimbursements invoiced for losses, expenses, or fees charged under the
7 deductibles shall be those percentages in effect on the effective date of the
8 insurance policy. For policies covering leased employees as defined in KRS
9 342.615, "premiums received" means premiums calculated using the
10 experience modification factor of each lessee as defined in KRS 342.615 for
11 each leased employee for that portion of the payroll pertaining to the leased
12 employee.

13 (b) "Direct written premium" for insurance companies means the gross premium
14 written less return premiums and premiums on policies not taken but
15 including policy and membership fees.

16 (c) "Premium," for policies effective on or after January 1, 1994, for insurance
17 companies means all consideration, whether designated as premium or
18 otherwise, for workers' compensation insurance paid to an insurance company
19 or its representative, including, on insurance policies with provisions for
20 deductibles, the calculated cost for coverage, including experience
21 modification and premium surcharge or discount, prior to any reduction for
22 deductibles. The rates, factors, and methods used to calculate the cost for
23 coverage under this paragraph for insurance policies or other evidence of
24 coverage with provisions for deductibles shall be the same rates, factors, and
25 methods normally used by the insurance company in Kentucky to calculate the
26 cost for coverage for insurance policies or other evidence of coverage without
27 provisions for deductibles, except that, for insurance policies or other

1 evidence of coverage with provisions for deductibles effective on or after
2 January 1, 1995, the calculated cost for coverage shall not include any
3 schedule rating modifications, debits, or credits. For policies with provisions
4 for deductibles with effective dates on or after January 1, 1995, assessments
5 shall be imposed as calculated by the deductible program adjustment. The cost
6 for coverage calculated under this paragraph by insurance companies that
7 issue only deductible insurance policies in Kentucky shall be actuarially
8 adequate to cover the entire liability of the employer for compensation under
9 this chapter, including all expenses and allowances normally used to calculate
10 the cost for coverage. For policies with provisions for deductibles with
11 effective dates of May 6, 1993, through December 31, 1993, for which the
12 insurance company did not report premiums and remit special fund
13 assessments based on the calculated cost for coverage prior to the reduction
14 for deductibles, "premium" includes the initial consideration plus any
15 reimbursements invoiced for losses, expenses, or fees charged under the
16 deductibles.

17 (d) "Return premiums" for insurance companies means amounts returned to
18 insureds due to endorsements, retrospective adjustments, cancellations,
19 dividends, or errors.

20 (e) "Deductible program adjustment" means calculating premium and premiums
21 received on a gross basis without regard to the following:

- 22 1. Schedule rating modifications, debits, or credits;
- 23 2. Deductible credits; or
- 24 3. Modifications to the cost of coverage from inception through and
25 including any audit that are based on negotiated retrospective rating
26 arrangements, including but not limited to large risk alternative rating
27 options;

- 1 (26) "Insurance policy" for an insurance company or self-insured group means the term
2 of insurance coverage commencing from the date coverage is extended, whether a
3 new policy or a renewal, through its expiration, not to exceed the anniversary date
4 of the renewal for the following year;
- 5 (27) "Self-insurance year" for a self-insured group means the annual period of
6 certification of the group created pursuant to KRS 342.350(4) and 304.50-010;
- 7 (28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1)
8 shall be the projected value of the employer's workers' compensation claims for the
9 next calendar year as calculated by the commissioner using generally-accepted
10 actuarial methods as follows:
- 11 (a) The base period shall be the earliest three (3) calendar years of the five (5)
12 calendar years immediately preceding the calendar year for which the
13 calculation is made. The commissioner shall identify each claim of the
14 employer which has an injury date or date of last injurious exposure to the
15 cause of an occupational disease during each one (1) of the three (3) calendar
16 years to be used as the base, and shall assign a value to each claim. The value
17 shall be the total of the indemnity benefits paid to date and projected to be
18 paid, adjusted to current benefit levels, plus the medical benefits paid to date
19 and projected to be paid for the life of the claim, plus the cost of medical and
20 vocational rehabilitation paid to date and projected to be paid. Adjustment to
21 current benefit levels shall be done by multiplying the weekly indemnity
22 benefit for each claim by the number obtained by dividing the statewide
23 average weekly wage which will be in effect for the year for which the
24 premium is being calculated by the statewide average weekly wage in effect
25 during the year in which the injury or date of the last exposure occurred. The
26 total value of the claims using the adjusted weekly benefit shall then be
27 calculated by the commissioner. Values for claims in which awards have been

1 made or settlements reached because of findings of permanent partial or
2 permanent total disability shall be calculated using the mortality and interest
3 discount assumptions used in the latest available statistical plan of the
4 advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The
5 sum of all calculated values shall be computed for all claims in the base
6 period;

7 (b) The commissioner shall obtain the annual payroll for each of the three (3)
8 years in the base period for each employer carrying his own risk from records
9 of the department and from the records of the Department of Workforce
10 Investment~~Office of Employment and Training~~, Education and Workforce
11 Development Cabinet. The commissioner shall multiply each of the three (3)
12 years of payroll by the number obtained by dividing the statewide average
13 weekly wage which will be in effect for the year in which the premium is
14 being calculated by the statewide average weekly wage in effect in each of the
15 years of the base period;

16 (c) The commissioner shall divide the total of the adjusted claim values for the
17 three (3) year base period by the total adjusted payroll for the same three (3)
18 year period. The value so calculated shall be multiplied by 1.25 and shall then
19 be multiplied by the employer's most recent annualized payroll, calculated
20 using records of the department and the Department of Workforce
21 Investment~~Office of Employment and Training~~ data which shall be made
22 available for this purpose on a quarterly basis as reported, to obtain the
23 premium for the next calendar year for assessment purposes under KRS
24 342.122;

25 (d) For November 1, 1987, through December 31, 1988, premium for each
26 employer carrying its own risk shall be an amount calculated by the board
27 pursuant to the provisions contained in this subsection and such premium

1 shall be provided to each employer carrying its own risk and to the funding
2 commission on or before January 1, 1988. Thereafter, the calculations set
3 forth in this subsection shall be performed annually, at the time each employer
4 applies or renews its application for certification to carry its own risk for the
5 next twelve (12) month period and submits payroll and other data in support
6 of the application. The employer and the funding commission shall be notified
7 at the time of the certification or recertification of the premium calculated by
8 the commissioner, which shall form the employer's basis for assessments
9 pursuant to KRS 342.122 for the calendar year beginning on January 1
10 following the date of certification or recertification;

11 (e) If an employer having fewer than five (5) years of doing business in this state
12 applies to carry its own risk and is so certified, its premium for the purposes of
13 KRS 342.122 shall be based on the lesser number of years of experience as
14 may be available including the two (2) most recent years if necessary to create
15 a three (3) year base period. If the employer has less than two (2) years of
16 operation in this state available for the premium calculation, then its premium
17 shall be the greater of the value obtained by the calculation called for in this
18 subsection or the amount of security required by the commissioner pursuant to
19 KRS 342.340(1);

20 (f) If an employer is certified to carry its own risk after having previously insured
21 the risk, its premium shall be calculated using values obtained from claims
22 incurred while insured for as many of the years of the base period as may be
23 necessary to create a full three (3) year base. After the employer is certified to
24 carry its own risk and has paid all amounts due for assessments upon
25 premiums paid while insured, the employer shall be assessed only upon the
26 premium calculated under this subsection;

27 (g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated

1 as set forth in this subsection; and

2 (h) Notwithstanding any other provision of this subsection, the premium of any
3 employer authorized to carry its own risk for purposes of assessments due
4 under this chapter shall be no less than thirty cents (\$0.30) per one hundred
5 dollars (\$100) of the employer's most recent annualized payroll for employees
6 covered by this chapter;

7 (29) "SIC code" as used in this chapter means the Standard Industrial Classification
8 Code contained in the latest edition of the Standard Industrial Classification Manual
9 published by the Federal Office of Management and Budget;

10 (30) "Investment interest" means any pecuniary or beneficial interest in a provider of
11 medical services or treatment under this chapter, other than a provider in which that
12 pecuniary or investment interest is obtained on terms equally available to the public
13 through trading on a registered national securities exchange, such as the New York
14 Stock Exchange or the American Stock Exchange, or on the National Association of
15 Securities Dealers Automated Quotation System;

16 (31) "Managed health care system" means a health care system that employs gatekeeper
17 providers, performs utilization review, and does medical bill audits;

18 (32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists,
19 podiatrists, and osteopathic and chiropractic practitioners acting within the scope of
20 their license issued by the Commonwealth;

21 (33) "Objective medical findings" means information gained through direct observation
22 and testing of the patient applying objective or standardized methods;

23 (34) "Work" means providing services to another in return for remuneration on a regular
24 and sustained basis in a competitive economy;

25 (35) "Permanent impairment rating" means percentage of whole body impairment caused
26 by the injury or occupational disease as determined by the "Guides to the Evaluation
27 of Permanent Impairment";

1 (36) "Permanent disability rating" means the permanent impairment rating selected by an
2 administrative law judge times the factor set forth in the table that appears at KRS
3 342.730(1)(b); and

4 (37) "Guides to the Evaluation of Permanent Impairment" means, except as provided in
5 KRS 342.262:

6 (a) The fifth edition published by the American Medical Association; and

7 (b) For psychological impairments, Chapter 12 of the second edition published by
8 the American Medical Association.

9 ➔Section 71. KRS 342.122 is amended to read as follows:

10 (1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose
11 of funding and prefunding the liabilities of the special fund, financing the
12 administration and operation of the Kentucky Workers' Compensation
13 Funding Commission, and financing the expenditures for all programs in the
14 Labor Cabinet, except the ~~Division of Apprenticeship and~~ Division of
15 Wages and Hours in the Department of Workplace Standards, as reflected in
16 the enacted budget of the Commonwealth and enacted by the General
17 Assembly, the funding commission shall impose a special fund assessment
18 rate of nine percent (9%) upon the amount of workers' compensation
19 premiums received on and after January 1, 1997, through December 31, 1997,
20 by every insurance carrier writing workers' compensation insurance in the
21 Commonwealth, by every self-insured group operating under the provisions of
22 KRS 342.350(4) and Chapter 304, and against the premium, as defined in
23 KRS 342.0011, of every employer carrying his or her own risk.

24 (b) The funding commission shall, for calendar year 1998 and thereafter, establish
25 for the special fund an assessment rate to be assessed against all premium
26 received during that calendar year which shall produce enough revenue to
27 amortize on a level basis the unfunded liability of the special fund as of June

1 30 preceding January 1 of each year, for the period remaining until December
2 31, 2029. The interest rate to be used in this calculation shall reflect the
3 funding commission's investment experience to date and the current
4 investment policies of the commission. This assessment shall be imposed
5 upon the amount of workers' compensation premiums received by every
6 insurance carrier writing workers' compensation insurance in the
7 Commonwealth, by every self-insured group operating under the provisions of
8 KRS 342.350(4) and Chapter 304, and against the premium, as defined in
9 KRS 342.0011, of every employer carrying its own risk. On or before October
10 1 of each year, the commission shall notify each insurance carrier writing
11 workers' compensation insurance in the Commonwealth, every group of self-
12 insured employers, and each employer carrying its own risk, of the rates which
13 shall become effective on January 1 of each year, unless modified by the
14 General Assembly.

15 (c) All assessments imposed by this section shall be paid to the Kentucky
16 Workers' Compensation Funding Commission and shall be credited to the
17 benefit reserve fund within the Kentucky Workers' Compensation Funding
18 Commission.

19 (d) The assessments imposed in this chapter shall be in lieu of all other
20 assessments or taxes on workers' compensation premiums.

21 (2) (a) These assessments shall be paid quarterly not later than the thirtieth day of the
22 month following the end of the quarter in which the premium is received.
23 Receipt shall be considered timely through actual physical receipt or by
24 postmark of the United States Postal Service. Employers carrying their own
25 risk and employers defined in KRS 342.630(2) shall pay the annual
26 assessments in four (4) equal quarterly installments.

27 (b) Beginning on January 1, 2020, all assessments shall be electronically remitted

1 to the funding commission quarterly not later than the thirtieth day of the
2 month following the end of the quarter in which the premium is received.
3 Receipt shall be considered timely when filed and remitted using the
4 appropriate electronic pay system as prescribed by the funding commission.
5 Employers carrying their own risk and employers defined in KRS 342.630(2)
6 shall pay the annual assessments in four (4) equal quarterly installments.

7 (3) The assessments imposed by this section may be collected by the insurance carrier
8 from the insured. However, the insurance carrier shall not collect from the employer
9 any amount exceeding the assessments imposed pursuant to this section. If the
10 insurance carrier collects the assessment from an insured, the assessment shall be
11 collected at the same time and in the same proportion as the premium is collected.
12 The assessment for an insurance policy or other evidence of coverage providing a
13 deductible may be collected in accordance with this chapter on a premium amount
14 that equates to the premium that would have applied without the deductible. Each
15 statement from an insurance carrier presented to an insured reflecting premium and
16 assessment amounts shall clearly identify and distinguish the amount to be paid for
17 premium and the amount to be paid for assessments. No insurance carrier shall
18 collect from an insured an amount in excess of the assessment percentages imposed
19 by this chapter. The assessment for an insurance policy or other evidence of
20 coverage providing a deductible may be collected in accordance with this chapter on
21 a premium amount that equates to the premium that would have applied without the
22 deductible. The percentages imposed by this chapter for an insurance policy issued
23 by an insurance company shall be those percentages in effect on the annual effective
24 date of the policy, regardless of the date that the premium is actually received by the
25 insurance company.

26 (4) A self-insured group may elect to report its premiums and to have its assessments
27 computed in the same manner as insurance companies. This election may not be

1 rescinded for at least ten (10) years, nor may this election be made a second time for
2 at least another ten (10) years, except that the board of directors of the funding
3 commission may, at its discretion, waive the ten (10) year ban on a case-by-case
4 basis after formal petition has been made to the funding commission by a self-
5 insured group.

6 (5) The funding commission, as part of the collection and auditing of the special fund
7 assessments required by this section, shall annually require each insurance carrier
8 and each self-insured group to provide a list of employers which it has insured or
9 which are members and the amount collected from each employer. Additionally, the
10 funding commission shall require each entity paying a special fund assessment to
11 report the SIC code for each employer and the amount of premium collected from
12 each SIC code. An insurance carrier or self-insured group may require its insureds
13 or members to furnish the SIC code for each of their employees. However, the
14 failure of any employer to furnish said codes shall not relieve the insurance carrier
15 or self-insured group from the obligation to furnish same to the funding
16 commission. The Department of Workforce Investment~~Office of Employment and~~
17 ~~Training~~, Education and Workforce Development Cabinet, is hereby directed to
18 make available the SIC codes assigned in its records to specific employers to aid in
19 the reporting and recording of the special fund assessment data.

20 (6) Each self-insured employer, self-insured group, or insurance carrier shall provide
21 any information and submit any reports the Department of Revenue or the funding
22 commission may require to effectuate the provisions of this section. In addition, the
23 funding commission may enter reciprocal agreements with other governmental
24 agencies for the exchange of information necessary to effectuate the provisions of
25 this section.

26 (7) The special fund shall be required to maintain a central claim registry of all claims
27 to which it is named a party, giving each such claim a unique claim number and

1 thereafter recording the status of each claim on a current basis. The registry shall be
2 established by January 26, 1988, for all claims on which payments were made since
3 July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all
4 claim files in the possession of the special fund.

5 (8) The fund heretofore designated as the subsequent claim fund is abolished, and there
6 is substituted therefor the special fund as set out by this section, and all moneys and
7 properties owned by the subsequent claim fund are transferred to the special fund.

8 (9) Notwithstanding any other provisions of this section or this chapter to the contrary,
9 the total amount of funds collected pursuant to the assessment rates adopted by the
10 funding commission shall not be limited to the provisions of this section.

11 (10) All assessment rates imposed for periods prior to January 1, 1997, under KRS
12 342.122 shall forever remain applicable to premiums received on policies with
13 effective dates prior to January 1, 1997, by every insurance carrier writing workers'
14 compensation insurance in the Commonwealth, by every self-insured group
15 operating under the provision of KRS 342.350(4) and Chapter 304, and against the
16 premium, as defined in KRS 342.0011, of every employer carrying its own risk.

17 ➔Section 72. KRS 342.710 is amended to read as follows:

18 (1) One of the primary purposes of this chapter shall be restoration of the injured
19 employee to gainful employment, and preference shall be given to returning the
20 employee to employment with the same employer or to the same or similar
21 employment.

22 (2) The commissioner shall continuously study the problems of rehabilitation, both
23 physical and vocational, and shall investigate and maintain a directory of all
24 rehabilitation facilities, both private and public.

25 (3) An employee who has suffered an injury covered by this chapter shall be entitled to
26 prompt medical rehabilitation services for whatever period of time is necessary to
27 accomplish physical rehabilitation goals which are feasible, practical, and

1 justifiable. When as a result of the injury he or she is unable to perform work for
2 which he or she has previous training or experience, he or she shall be entitled to
3 such vocational rehabilitation services, including retraining and job placement, as
4 may be reasonably necessary to restore him or her to suitable employment. In all
5 such instances, the administrative law judge shall inquire whether such services
6 have been voluntarily offered and accepted. The administrative law judge on his or
7 her own motion, or upon application of any party or carrier, after affording the
8 parties an opportunity to be heard, may refer the employee to a qualified physician
9 or facility for evaluation of the practicability of, need for, and kind of service,
10 treatment, or training necessary and appropriate to render him or her fit for a
11 remunerative occupation. Upon receipt of such report, the administrative law judge
12 may order that the services and treatment recommended in the report, or such other
13 rehabilitation treatment or service likely to return the employee to suitable, gainful
14 employment, be provided at the expense of the employer or its insurance carrier.
15 Vocational rehabilitation training, treatment, or service shall not extend for a period
16 of more than fifty-two (52) weeks, except in unusual cases when by special order of
17 the administrative law judge, after hearing and upon a finding, determined by sound
18 medical evidence which indicates such further rehabilitation is feasible, practical,
19 and justifiable, the period may be extended for additional periods.

20 (4) Where rehabilitation requires residence at or near the facility or institution, away
21 from the employee's customary residence, reasonable cost of his or her board,
22 lodging, or travel shall be paid for by the employer or its insurance carrier.

23 (5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge
24 shall result in a fifty percent (50%) loss of compensation for each week of the
25 period of refusal.

26 (6) The commissioner shall cooperate on a reciprocal basis with the Office of
27 Vocational Rehabilitation and the Department of Workforce Investment ~~Office of~~

1 ~~Employment and Training~~] of the Education and Workforce Development Cabinet.
2 In the event medical treatment, medical rehabilitation services, or vocational
3 rehabilitation services are purchased for an injured employee by the Office of
4 Vocational Rehabilitation or Department of Workforce Investment~~Office of~~
5 ~~Employment and Training~~] following the refusal by the employer or its insurance
6 carrier to provide such services, the administrative law judge, after affording the
7 parties an opportunity to be heard, may order reimbursement of the cost of such
8 treatment or services by the employer or its insurance carrier as apportioned in the
9 award. This section shall not be interpreted to require mandatory evaluation of
10 employees based on length of disability. Any administrative regulations
11 promulgated pursuant to this section that require mandatory referral to a qualified
12 rehabilitation counselor shall expire on April 4, 1994.

13 (7) An employee who is enrolled and participating in a program of rehabilitation
14 training pursuant to this section may elect to receive an acceleration of benefits as
15 awarded under KRS 342.730. Such acceleration shall be available to the employee
16 during the period of retraining, but in no event shall be paid in a weekly amount
17 greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage
18 upon which the award is based, not to exceed one hundred percent (100%) of the
19 state average weekly wage. Upon successful completion of the rehabilitation
20 program, the total of all accelerated benefits paid shall be deducted on a dollar-for-
21 dollar basis, without discount, from weekly benefits otherwise due the employee
22 subject to the maximum amount of the award. Such remaining benefits, if any, shall
23 then be divided by the number of weeks remaining payable under the award, and
24 that amount shall be the weekly benefit due the employee. If a program of
25 rehabilitation training is terminated by the employee prior to completion, all sums
26 paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265
27 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due

1 the employee subject to the maximum amount of the award. Such remaining
2 benefits, after the discount, shall be divided by the number of weeks remaining
3 payable under the award, and that amount shall be the weekly benefit due the
4 employee. In no event shall this subsection be construed as requiring payment of
5 benefits in excess of the total of those benefits which would otherwise be payable
6 under the award.

7 ➔Section 73. KRS 342.732 is amended to read as follows:

8 (1) Notwithstanding any other provision of this chapter, income benefits and retraining
9 incentive benefits for occupational pneumoconiosis resulting from exposure to coal
10 dust in the severance or processing of coal shall be paid as follows:

11 (a) 1. If an employee has a radiographic classification of category 1/0, 1/1 or
12 1/2, coal workers' pneumoconiosis and spirometric test values of eighty
13 percent (80%) or more, the employee shall be awarded a one (1) time
14 only retraining incentive benefit which shall be an amount equal to
15 sixty-six and two-thirds percent (66-2/3%) of the employee's average
16 weekly wage as determined by KRS 342.740, but not more than seventy-
17 five percent (75%) of the state average weekly wage, payable
18 semimonthly for a period not to exceed one hundred four (104) weeks,
19 except as provided in subparagraph 3. of this paragraph.

20 2. Except as provided in subparagraph 3. of this paragraph, these benefits
21 shall be paid only while the employee is enrolled and actively and
22 successfully participating as a full-time student taking the equivalent of
23 twelve (12) or more credit hours per week in a bona fide training or
24 education program that if successfully completed will qualify the person
25 completing the course for a trade, occupation, or profession and which
26 program can be completed within the period benefits are payable under
27 this subsection. The program must be approved under administrative

- 1 regulations to be promulgated by the commissioner. These benefits shall
2 also be paid to an employee who is a part-time student taking not less
3 than the equivalent of six (6) nor more than eleven (11) credit hours per
4 week, except that benefits shall be an amount equal to thirty-three and
5 one-third percent (33-1/3%) of the employee's average weekly wage as
6 determined by KRS 342.740, but not more than thirty-seven and one-
7 half percent (37-1/2%) of the state average weekly wage, payable
8 biweekly for a period not to exceed two hundred eight (208) weeks.
- 9 3. These benefits shall also be paid biweekly while an employee is actively
10 and successfully pursuing a High School Equivalency Diploma in
11 accordance with administrative regulations promulgated by the
12 commissioner. These benefits shall be paid in the amount of sixty-six
13 and two-thirds percent (66-2/3%) of the employee's average weekly
14 wage not to exceed seventy-five percent (75%) of the state average
15 weekly wage for a maximum period not to exceed seventeen (17) weeks.
16 These income benefits shall be in addition to the maximum amount of
17 retraining incentive benefits payable under this paragraph.
- 18 4. The employer shall also pay, directly to the institution conducting the
19 training or education program, instruction, tuition, and material costs not
20 to exceed five thousand dollars (\$5,000).
- 21 5. The employee shall notify the parties of his or her intention to retrain
22 within thirty (30) days after the administrative law judge's order
23 becomes final. The employee must initiate retraining within three
24 hundred sixty-five (365) days of the administrative law judge's final
25 order. Income benefits payable under subparagraphs 1. and 2. of this
26 paragraph shall begin no later than thirty (30) days following conclusion
27 of income benefits paid under subparagraph 3. if such benefits were

- 1 paid.
- 2 6. If an employee who is awarded retraining incentive benefits under this
- 3 paragraph successfully completes a bona fide training or education
- 4 program approved by the commissioner, upon completion of the training
- 5 or education program, the employer shall pay to that employee the sum
- 6 of five thousand dollars (\$5,000) for successful completion of a program
- 7 that requires a course of study of not less than twelve (12) months nor
- 8 more than eighteen (18) months, or the sum of ten thousand dollars
- 9 (\$10,000) for successful completion of a program that requires a course
- 10 of study of more than eighteen (18) months. This amount shall be in
- 11 addition to retraining incentive benefits awarded under this paragraph,
- 12 and tuition expenses paid by the employer.
- 13 7. An employee who is age fifty-seven (57) years or older on the date of
- 14 last exposure and who is awarded retraining incentive benefits under
- 15 subparagraphs 1. to 4. of this paragraph, may elect to receive in lieu of
- 16 retraining incentive benefits, an amount equal to sixty-six and two-thirds
- 17 percent (66-2/3%) of the employee's average weekly wage, not to exceed
- 18 seventy-five percent (75%) of the state average weekly wage as
- 19 determined by KRS 342.740 multiplied by the disability rating of
- 20 twenty-five percent (25%) for a period not to exceed four hundred
- 21 twenty-five (425) weeks, or until the employee reaches sixty-five (65)
- 22 years of age, whichever occurs first, KRS 342.730(4) notwithstanding.
- 23 8. A claim for retraining incentive benefits provided under this section may
- 24 be filed, but benefits shall not be payable, while an employee is
- 25 employed in the severance or processing of coal as defined in KRS
- 26 342.0011(23).
- 27 9. If an employer appeals an award of retraining incentive benefits, upon an

1 employee's motion, an administrative law judge may grant retraining
2 incentive benefits pending appeal as interlocutory relief.

3 10. If an employee elects to defer payment of retraining incentive benefits
4 for a period of retraining longer than three hundred sixty-five (365) days,
5 benefits otherwise payable shall be reduced week-for-week for each
6 week retraining benefits are further deferred;

7 (b) 1. If an employee has a radiographic classification of category 1/0, 1/1, or
8 1/2 coal workers' pneumoconiosis and respiratory impairment evidenced
9 by spirometric test values of fifty-five percent (55%) or more but less
10 than eighty percent (80%) of the predicted normal values, or category
11 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and spirometric test values
12 of eighty percent (80%) or more of the predicted normal values, there
13 shall be an irrebuttable presumption that the employee has a disability
14 rating of twenty-five percent (25%) resulting from exposure to coal dust,
15 and the employee shall be awarded an income benefit which shall be an
16 amount equal to sixty-six and two-thirds percent (66-2/3%) of the
17 employee's average weekly wage, but not to exceed seventy-five percent
18 (75%) of the state average weekly wage as determined by KRS 342.740
19 multiplied by the disability rating of twenty-five percent (25%). The
20 award shall be payable for a period not to exceed four hundred twenty-
21 five (425) weeks.

22 2. An employee who is awarded benefits under this paragraph may, at the
23 time of the award or before benefit payments begin, elect to receive
24 retraining incentive benefits provided under paragraph (a)1. to 6. of this
25 subsection, in lieu of income benefits awarded under this paragraph,
26 provided that such option is available one (1) time only and is not
27 revocable, and provided that in no event shall income benefits payable

1 under this paragraph be stacked or added to retraining incentive income
2 benefits paid or payable under subparagraphs 1. to 6. of paragraph (a)1.
3 to 6. of this subsection to extend the period of disability;

4 (c) If it is determined that an employee has a radiographic classification of
5 category 1/0, 1/1, or 1/2, and respiratory impairment resulting from exposure
6 to coal dust as evidenced by spirometric test values of less than fifty-five
7 percent (55%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal
8 workers' pneumoconiosis and respiratory impairment evidenced by
9 spirometric test values of fifty-five percent (55%) or more but less than eighty
10 percent (80%) of the predicted normal values, or category 3/2 or 3/3 coal
11 workers' pneumoconiosis and spirometric test values of eighty percent (80%)
12 or more, there shall be an irrebuttable presumption that the employee has a
13 disability rating of fifty percent (50%) resulting from exposure to coal dust,
14 and the employee shall be awarded an income benefit which shall be an
15 amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's
16 average weekly wage but not to exceed seventy-five percent (75%) of the state
17 average weekly wage as determined by KRS 342.740 multiplied by the
18 disability rating of fifty percent (50%). The award shall be payable for a
19 period not to exceed four hundred twenty-five (425) weeks;

20 (d) If it is determined that an employee has a radiographic classification of
21 category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis, based on the latest
22 ILO International Classification of Radiographics, and respiratory impairment
23 as evidenced by spirometric test values of less than fifty-five percent (55%) of
24 the predicted normal values or category 3/2 or 3/3 pneumoconiosis and
25 respiratory impairment evidenced by spirometric test values of fifty-five
26 percent (55%) or more but less than eighty percent (80%) of the predicted
27 normal values, there shall be an irrebuttable presumption that the employee

1 has a seventy-five percent (75%) disability rating resulting from exposure to
2 coal dust and the employee shall be awarded income benefits which shall be
3 equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average
4 weekly wage but not to exceed seventy-five percent (75%) of the state average
5 weekly wage as determined by KRS 342.740 multiplied by the disability
6 rating of seventy-five percent (75%). The award shall be payable for a period
7 not to exceed five hundred twenty (520) weeks. Income benefits awarded
8 under this paragraph shall be payable to the employee during the disability;
9 and

10 (e) If it is determined that an employee has radiographic classification of 3/2 or
11 3/3 occupational pneumoconiosis and respiratory impairment evidenced by
12 spirometric test values of less than fifty-five percent (55%) of the predicted
13 normal values, or complicated pneumoconiosis (large opacities category A, B,
14 or C progressive massive fibrosis), there shall be an irrebuttable presumption
15 that the employee is totally disabled resulting from exposure to coal dust, and
16 the employee shall be awarded income benefits equal to sixty-six and two-
17 thirds percent (66-2/3%) of the employee's average weekly wage but not more
18 than one hundred percent (100%) of the state average weekly wage and not
19 less than twenty percent (20%) of the average weekly wage of the state as
20 determined by KRS 342.740. Income benefits awarded under this paragraph
21 shall be payable to the employee during such disability.

22 (2) The presence of respiratory impairment resulting from exposure to coal dust shall
23 be established by using the largest forced vital capacity (FVC) value or the largest
24 forced expiratory volume in one second (FEV1) value determined from the totality
25 of all such spirometric testing performed in compliance with accepted medical
26 standards.

27 (3) When valid spirometric tests are not provided and a physician certifies to the

1 administrative law judge that spirometric testing is not medically indicated because
2 of the permanent physical condition of the employee, the administrative law judge
3 shall make his or her decision on the basis of evidence admitted which establishes
4 the existence of a diagnosis of occupational pneumoconiosis and respiratory
5 impairment due to the occupational pneumoconiosis. The evidence submitted by the
6 employee shall include one (1) or more arterial blood gas studies performed in
7 accordance with accepted medical standards. Income benefits shall not be awarded
8 in the absence of valid spirometric tests if the claimant's PO₂ arterial blood gas
9 value is equal to or higher than one (1) standard deviation from the normal value
10 obtained by the formula $(103.5 - 0.42X)$, where X equals the claimant's age at the
11 time of the arterial blood gas study.

12 (4) Upon request, the commissioner shall refer an employee who has been awarded
13 retraining incentive benefits under subsection (1)(a) of this section to the Office of
14 Vocational Rehabilitation for evaluation and assessment of the training, education,
15 or other services necessary to prepare the employee for a trade, occupation, or
16 profession that will return the employee to remunerative employment, or services
17 necessary and appropriate to prepare and enable the employee to successfully
18 complete a bona fide training or education program approved by the commissioner.
19 The commissioner shall contract with the Office of Vocational Rehabilitation to
20 provide vocational rehabilitation or education services commensurate with the skill
21 levels and abilities of the employee. Services provided under this subsection shall
22 be funded by the coal workers' pneumoconiosis fund, KRS 342. 1242
23 notwithstanding, for claims filed on or before June 30, 2017, and by the employer
24 for claims filed after June 30, 2017.

25 (5) The commissioner shall promulgate administrative regulations sufficient to
26 effectuate the provisions relating to retraining incentive benefits provided under
27 subsection (1)(a) of this section. The administrative regulations shall:

- 1 (a) Create an online portal through which employees shall select a facility or
2 institution to provide their retraining. This portal shall list bona fide training
3 or education programs. These programs shall include postsecondary programs
4 registered with the Higher Education Assistance Authority, and will qualify
5 the employee for a trade, occupation, or profession. The programs listed shall
6 be capable of completion within the period benefits are payable under
7 subsection (1)(a) of this section;
- 8 (b) Establish requirements for approval and certification of a bona fide training or
9 education program;
- 10 (c) Provide that funds paid to the training or education program by the employer
11 as required under subsection (1)(a)4. of this section shall be applied only to
12 instruction, tuition, material costs, and any fees necessary for the completion
13 of the program;
- 14 (d) Establish requirements for successful participation in and completion of an
15 approved and certified bona fide training or education program, and eligibility
16 standards that must be satisfied to receive sums to be paid by the employer
17 pursuant to subsection (1)(a)6. of this section; and
- 18 (e) Establish attendance, performance and progress standards, and reporting
19 requirements in consultation with the Office of Adult Education within the
20 Department of Workforce Investment in the Education and Workforce
21 Development Cabinet~~[Kentucky Adult Education Program within the Council~~
22 ~~on Postsecondary Education]~~ as conditions that must be satisfied to receive
23 retraining incentive income benefits pursuant to subsection (1)(a)3. of this
24 section.
- 25 (6) In no event shall income benefits awarded under this section be stacked or added to
26 income benefits awarded under KRS 342.730 to extend the period of disability and
27 in no event shall income or retraining incentive benefits be paid to the employee

1 while the employee is working in the mining industry in the severance or processing
2 of coal as defined in KRS 342.0011(23)(a).

3 ➔Section 74. KRS 439.179 is amended to read as follows:

4 (1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or
5 forfeiture, or contempt of court, may be granted the privilege of leaving the jail
6 during necessary and reasonable hours for any of the following purposes:

7 (a) Seeking employment; or

8 (b) Working at his employment; or

9 (c) Conducting his own business or other self-employment occupation including,
10 in the case of a woman, housekeeping and attending the needs of her family;
11 or

12 (d) Attendance at an educational institution; or

13 (e) Medical treatment.

14 (2) Unless the privilege is expressly granted by the court, the prisoner shall be
15 sentenced to ordinary confinement. The prisoner may petition the sentencing court
16 for the privilege at the time of sentence or thereafter, and, in the discretion of the
17 sentencing court, may renew his petition. The sentencing court may withdraw the
18 privilege at any time by order entered with or without notice. The jailer shall advise
19 the court in establishing criteria in determining a prisoner's eligibility for work
20 release.

21 (3) The jailer shall notify the ~~Office for Employment and Training,~~ Department *of*
22 ~~for~~ Workforce Investment, which shall endeavor to secure employment for
23 unemployed prisoners under this section. If a prisoner is employed for wages or
24 salary, they shall, by wage assignment, be turned over to the District Court which
25 shall deposit the same in a trust checking account and shall keep a ledger showing
26 the status of the account of each prisoner. The wages or salary shall not be subject
27 to garnishment of either the employer or the District Court during the prisoner's

1 term, and shall be disbursed only as provided in this section. For tax purposes they
2 shall be the income of the prisoner.

3 (4) Every prisoner gainfully employed shall be liable for the cost of his board in the jail,
4 for an amount up to twenty-five percent (25%) of the prisoner's gross daily wages,
5 not to exceed forty dollars (\$40) per day, but not less than twelve dollars (\$12) per
6 day, established by the fiscal court of a county or the urban-county council if an
7 urban-county government. If he defaults, his privilege under this section shall be
8 automatically forfeited. All moneys shall be paid directly to the jailer and paid to
9 the county treasury for use on the jail as provided in KRS 441.206. The fiscal court
10 of a county or the urban-county council if an urban-county government may, by
11 ordinance, provide that the county furnish or pay for the transportation of prisoners
12 employed under this section to and from the place of employment and require that
13 the costs be repaid by the prisoner.

14 (5) The sentencing court may order the defendant's employer to deduct from the
15 defendant's wages or salary payments for the following purposes:

- 16 (a) The board of the prisoner and transportation costs incurred by the county;
17 (b) Support of the prisoner's dependents, if any;
18 (c) Payment, either in full or ratably, of the prisoner's obligations acknowledged
19 by him in writing or which have been reduced to judgment; and
20 (d) The balance, if any, to the prisoner upon his discharge.

21 (6) The sentencing court shall not direct that any payment authorized under this section
22 be paid through the circuit clerk.

23 (7) The Department of Corrections shall, at the request of the District Judge, investigate
24 and report on the amount necessary for the support of the prisoner's dependents, and
25 periodically review the prisoner's progress while on leave from the jail and report its
26 findings to the District Judge.

27 (8) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail

1 as provided in subsection (1) for any breach of discipline or other violation of jail
2 regulations for a period not to exceed five (5) days.

3 (9) In counties containing an urban-county form of government, the duties,
4 responsibilities, and obligations vested herein in the Department of Corrections
5 shall be performed by the adult misdemeanant probation and work release agency of
6 the urban-county government.

7 ➔Section 75. KRS 533.210 is amended to read as follows:

8 (1) The program described in KRS 533.200 shall be administered by the *Office of*
9 *Adult Education within the Department of Workforce Investment in the*
10 *Education and Workforce Development Cabinet*~~[Kentucky Adult Education~~
11 ~~Program within the Council on Postsecondary Education]~~, which shall promulgate
12 administrative regulations, pursuant to KRS Chapter 13A, relative to the conduct of
13 the program, including but not limited to the costs of participation in the program
14 by persons sentenced to the program.

15 (2) The *Office of Adult Education*~~[Kentucky Adult Education Program]~~ shall license
16 qualified persons or organizations to conduct the program described in KRS
17 533.200 on behalf of the agency. Qualifications, the manner of licensing, and all
18 other matters shall be set by administrative regulation.

19 ➔Section 76. All personnel, records, files, equipment, and funds of the Kentucky
20 Adult Education Program within the Council for Postsecondary Education shall be
21 transferred to the Office of Adult Education within the Department of Workforce
22 Investment in the Education and Workforce Development Cabinet, except funds related
23 to the federal Adult Education and Family Literacy Act (AEFLA) program shall not be
24 transferred and the Council on Postsecondary Education shall remain the eligible agency
25 with authority to draw down AEFLA funds until the United States Department of
26 Education approves the transfer of the AEFLA grant from the Council on Postsecondary
27 Education to the Education and Workforce Development Cabinet and issues an AEFLA

1 grant award notice to the Education and Workforce Development Cabinet.

2 →Section 77. Notwithstanding KRS 12.028(5):

3 (1) The General Assembly confirms in part Executive Order 2018-597, dated July
4 23, 2018, to the extent that it is not otherwise confirmed or superseded by this Act. The
5 General Assembly confirms the entirety of that order, except for Part II, which it does not
6 confirm.

7 (2) The General Assembly confirms Executive Order 2018-779, dated September
8 21, 2018, to the extent that it is not otherwise confirmed or superseded by this Act.

9 (3) The General Assembly confirms Executive Order 2019-026, dated January 7,
10 2019, to the extent that it is not otherwise confirmed or superseded by this Act.

11 (4) The General Assembly confirms Executive Order 2019-027, dated January 7,
12 2019, to the extent not otherwise confirmed or superseded by this Act.