

1 AN ACT relating to the Treasurer.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO  
4 READ AS FOLLOWS:

5 *(1) Notwithstanding KRS 44.060, 45.101, or 174.508 or any other statute or*  
6 *administrative regulation to the contrary, the use of state aircraft by any secretary*  
7 *or other employee of any executive branch cabinet for out-of-state travel shall be*  
8 *approved by the State Treasurer.*

9 *(2) The State Treasurer shall only approve requests that document the use of state*  
10 *aircraft is the lowest cost option as measured by both travel costs and travel time.*

11 *(3) The State Treasurer shall not designate approval authority for out-of-state travel*  
12 *on state aircraft by executive branch cabinet secretaries or other employees to any*  
13 *other person.*

14 *(4) Any requests and documentation regarding the use of state aircraft collected by*  
15 *the State Treasurer shall be subject to the Kentucky Open Records Act, KRS*  
16 *61.870 to 61.884.*

17 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO  
18 READ AS FOLLOWS:

19 *There is established in the Office of the State Treasurer the Office of Financial*  
20 *Management, which shall be headed by an executive director, shall have the duties and*  
21 *responsibilities established in Section 3 of this Act, and shall serve as administrative*  
22 *staff to the Turnpike Authority of Kentucky. The executive director shall serve as*  
23 *secretary of the Turnpike Authority of Kentucky.*

24 ➔Section 3. KRS 42.410 is repealed, reenacted as a new section of KRS Chapter  
25 41, and amended to read as follows:

26 (1) The Office of Financial Management established in *Section 2 of this Act*~~KRS~~  
27 ~~42.0201~~ shall, subject to the provisions of KRS 41.020 to 41.375 and KRS 42.500,

- 1 have and perform functions and duties as follows:
- 2 (a) The analysis and management of short and long-term cash flow requirements;
- 3 (b) The maximization of the return on state investments given the cash flow and
- 4 liquidity requirements;
- 5 (c) The coordination and monitoring of cash needs relative to investment and debt
- 6 activity;
- 7 (d) The development of a long-term debt plan including criteria for the issuance
- 8 of debt and an evaluation of how much total state debt is justified;
- 9 (e) The responsibility for liaison with the General Assembly on all investment
- 10 and debt matters, including, but not limited to, new bond issues, the status of
- 11 state debt, and the status of state investments; and
- 12 (f) All other functions~~[of the cabinet]~~ relative to state investment and debt
- 13 management including, but not limited to, the making of debt service
- 14 payments, the sale of bonds, and staff assistance to the State Property and
- 15 Buildings Commission, the Asset Liability Commission, and the State
- 16 Investment Commission.
- 17 (2) The Office of Financial Management shall render monthly written reports
- 18 concerning the performance of each investment to the State Investment
- 19 Commission.
- 20 (3) The Office of Financial Management shall review state appropriation-supported
- 21 bond issues for possible debt service savings through refundings as market
- 22 conditions warrant.
- 23 (4) The Office of Financial Management shall submit a report within forty-five (45)
- 24 days after the publication of the Comprehensive Annual Financial Report to the
- 25 Legislative Research Commission, for referral to the appropriate committee,
- 26 indicating the bond issues refunded, original and new interest rates, estimated
- 27 savings, original and new amortization schedules, issuance costs, debt reserves,

1 disposition of savings, and information on economic, fiscal, and market indicators  
2 of the Commonwealth's debt position.

3 (5) The state debt report shall include, but not be limited to, economic, fiscal, and  
4 market indicators of debt position as set forth in this section. Indicators shall be  
5 presented in tabular and, where appropriate, graphical form. Indicators shall be  
6 presented for the fiscal year just ended and, if data is available and except as  
7 otherwise noted, for the preceding nine (9) fiscal years.

8 (6) Economic indicators shall include:

- 9 (a) Nonappropriation-supported debt as a percent of state total personal income;
- 10 (b) Nonappropriation-supported debt as a percent of total assessed value of  
11 property;
- 12 (c) Nonappropriation-supported debt per capita;
- 13 (d) Appropriation-supported debt as a percent of state total personal income;
- 14 (e) Appropriation-supported debt as a percent of total assessed value of property;
- 15 (f) Appropriation-supported debt per capita;
- 16 (g) Appropriation-supported debt service as a percent of total state personal  
17 income;
- 18 (h) Appropriation-supported debt service as a percent of total assessed value of  
19 property; and
- 20 (i) Appropriation-supported debt service per capita.

21 (7) Fiscal indicators shall be reported separately and in total for the general fund, the  
22 road fund, and each restricted fund account from which debt service is expended.

23 (8) Fiscal indicators shall include:

- 24 (a) Annual appropriation-supported debt service as a percent of total revenues;  
25 and
- 26 (b) Annual appropriation-supported debt service as a percent of available  
27 revenues.

- 1 (9) Market indicators shall include:
- 2 (a) The rating assigned by Moody's Investors Services, Inc., or a comparable  
3 rating agency, to each nonappropriation-supported bond issued in the fiscal  
4 year just ended;
- 5 (b) The rating assigned by Moody's Investors Services, Inc., or a comparable  
6 rating agency, to each appropriation-supported bond issued in the fiscal year  
7 just ended;
- 8 (c) A comparison of the difference between the true interest cost of each  
9 nonappropriation-supported bond issued and the value of a selected revenue  
10 bond index, as published by the Bond Buyer Weekly, the Delphis Hanover  
11 Corporation, or other comparable service on a date relevant to the bond issue;  
12 and
- 13 (d) A comparison of the difference between the true interest cost of each  
14 appropriation-supported bond issued and the value of a selected municipal  
15 bond index, as published by the Bond Buyer Weekly, the Delphis Hanover  
16 Corporation, or other comparable service on a date relevant to the bond issue.
- 17 (10) The state debt report shall contain a complete description of the sources of data used  
18 to prepare the report. This description shall include, but not be limited to, an  
19 enumeration, by fund and restricted fund account, of all debt, debt service, and  
20 revenue figures; the source and publication date of figures used for state total  
21 personal income, total assessed value of property, population, and selected bond  
22 indexes.
- 23 (11) If the sources of data used in a current report differ substantially from those used in  
24 the report of the preceding year, the report shall include a detailed explanation of  
25 the change. If possible, data presented in the current report for previous years shall  
26 be calculated so that, in any one (1) report, indicators for all years are calculated  
27 using consistent data categories. The use of any inconsistent data shall be noted and

1 explained.

2 (12) Nothing in this section shall authorize any act inconsistent with the authority  
3 granted the State Investment Commission by KRS 42.500 and 42.525.

4 ➔Section 4. KRS 42.420 is repealed and reenacted as a new section of KRS  
5 Chapter 41 to read as follows:

6 All other provisions of the Kentucky Revised Statutes notwithstanding, all state agencies  
7 and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or  
8 other entities of, or representing the Commonwealth with the authority to issue bonds,  
9 shall submit all proposed bond issues, bond anticipation notes, or interim debt financing  
10 to the Office of Financial Management for review and approval prior to issuance of such  
11 debt.

12 ➔Section 5. KRS 42.560 is repealed, reenacted as a new section of KRS Chapter  
13 41, and amended to read as follows:

14 (1) There is established in the Treasury of the Commonwealth a trust fund to be known  
15 as the "energy assistance trust fund" referred to in *this section and Section 6 of this*  
16 *Act*~~[KRS 42.560 to 42.572]~~ as the "trust fund."

17 (2) The trust fund shall consist of any oil overcharge refunds which become available to  
18 the state as a result of litigation for alleged overcharges for crude oil or refined  
19 petroleum products sold during the period of time in which federal price controls on  
20 such products were in effect, any moneys as may be appropriated by the general  
21 fund, and any investment interest earned on the fund.

22 (3) The fund shall be managed by the state Office of Financial Management within the  
23 Office of the *State Treasurer*~~[Controller]~~ and all moneys in excess of the amount to  
24 be disbursed in a given fiscal year shall be invested to maximize returns. The  
25 principal and any interest earnings of the trust fund shall at no time lapse to the  
26 general fund.

27 (4) The accumulated interest shall be made available as follows:

- 1 (a) Fifty percent (50%) to the Finance and Administration Cabinet to be allocated  
2 to weatherization services to low-income households; and  
3 (b) Fifty percent (50%) to the Cabinet for Health and Family Services to be  
4 allocated to low-income energy assistance services.

5 The funds to be available for expenditure in any fiscal year shall be appropriated by  
6 the General Assembly from the trust fund as provided in KRS 48.300.

7 ➔Section 6. KRS 42.566 is repealed and reenacted as a new section of KRS  
8 Chapter 41 to read as follows:

9 The funds appropriated by the General Assembly from the energy assistance trust fund  
10 shall be expended in a manner consistent with the judgments and settlements, as  
11 amended, which produced the oil overcharge refunds, as follows:

12 (1) The sum of five hundred thousand dollars (\$500,000) or eight percent (8%) of the  
13 amount appropriated each fiscal year, whichever is greater, shall be distributed  
14 annually to the Energy and Environment Cabinet for expenditure in the Institutional  
15 Conservation Program established pursuant to Part G of Title III of the Energy  
16 Policy and Conservation Act, 42 U.S.C. secs. 6371 et seq. The source of these funds  
17 shall be deemed to be the trust funds produced by the Stripper Well litigation, In Re  
18 Department of Energy Stripper Well Exemption Litigation, D.C. Kan., M.D.L. No.  
19 378, and the Diamond Shamrock litigation, Diamond Shamrock Refining Co. v.  
20 Standard Oil of Indiana, D.C. Ind., Civil Action No. C-84-1432, and interest  
21 accumulated thereon; and

22 (2) The balance of the trust funds appropriated for expenditure in any fiscal year shall  
23 be distributed as follows:

24 (a) Forty percent (40%) to the Finance and Administration Cabinet to be allocated  
25 to the cabinet's program for weatherization of low-income households  
26 established pursuant to Part A of the Energy Conservation and Existing  
27 Buildings Act of 1976, 42 U.S.C. secs. 6861 et seq.; and

1 (b) Sixty percent (60%) to the Cabinet for Health and Family Services to be  
2 allocated to the cabinet's program for energy crisis or prevention services for  
3 low-income households established pursuant to the Low-Income Home  
4 Energy Assistance Act of 1981, 42 U.S.C. secs. 8621 et seq.

5 ➔Section 7. KRS 42.572 is repealed, reenacted as a new section of KRS Chapter  
6 41, and amended to read as follows:

7 The~~[State]~~ Office of Financial Management shall prepare and submit to the Legislative  
8 Research Commission a report by July 30 of each year on the operational and financial  
9 status of the fund.

10 ➔Section 8. KRS 7B.080 is amended to read as follows:

11 (1) The operation of the center shall be funded from the restricted agency fund  
12 established in subsection (3) of this section.

13 (2) There is hereby established a fiduciary fund to be entitled the Kentucky Long-Term  
14 Policy Research Center fund. The fund may receive appropriations, gifts, grants,  
15 and federal funds. Moneys in the fund shall not lapse back to the General Fund at  
16 the end of any fiscal year. Moneys in the fund shall be invested by the Office of  
17 Financial Management within the Office of the State Treasurer~~[Controller]~~,  
18 consistent with the provisions of KRS Chapter 41~~[42]~~.

19 (3) A restricted agency fund account is established to receive the interest on the  
20 fiduciary fund and any other resources made available to the center. Interest from  
21 the fiduciary fund shall be credited to the restricted agency fund account on a  
22 monthly basis for the center's operations. Moneys in the account shall be invested  
23 by the Office of Financial Management within the Office of the State  
24 Treasurer~~[Controller]~~, consistent with the provisions of KRS Chapter 41~~[42]~~.

25 (4) Any appropriation by the General Assembly to the fiduciary fund shall remain intact  
26 and shall not be available to the board, and should the center and its functions  
27 terminate, the principal and any remaining interest from other accumulated funds

1 shall revert to the general fund of the Commonwealth or to the donor.

2 ➔Section 9. KRS 18A.2254 is amended to read as follows:

3 (1) Based on the recommendation of the secretary of the Personnel Cabinet, the  
4 secretary of the Finance and Administration Cabinet, in lieu of contracting with one  
5 (1) or more insurers licensed to do business in this state, shall procure, in  
6 compliance with KRS 45A.080, 45A.085, and 45A.090, and reviewed by the  
7 Government Contract Review Committee pursuant to KRS 45A.705, a contract  
8 with one (1) or more third-party administrators licensed to do business in the  
9 Commonwealth pursuant to KRS 304.9-052 to administer a self-insured plan  
10 offered to the Public Employee Health Insurance Program for public employees.  
11 The requirements for the self-insured plan shall be as follows:

- 12 (a) 1. The secretary of the Personnel Cabinet shall incorporate by reference in  
13 an administrative regulation, pursuant to KRS 13A.2251, the plan year  
14 handbook distributed by the Department of Employee Insurance in the  
15 Personnel Cabinet to public employees covered under the self-insured  
16 plan. The plan year handbook shall contain, at a minimum, the  
17 premiums, employee contributions, employer contributions, and a  
18 summary of benefits, copays, coinsurance, and deductibles for each plan  
19 provided to public employees covered under the self-insured plan;
- 20 2. Notwithstanding any other provision of KRS Chapter 18A to the  
21 contrary, the administrative regulation shall not be subject to review by  
22 the Personnel Board prior to filing the administrative regulation with the  
23 Legislative Research Commission; and
- 24 3. The secretary of the Personnel Cabinet shall file the administrative  
25 regulation for the self-insured plan with the Legislative Research  
26 Commission on or before September 15 of the year before each new  
27 plan year begins;



- 1 (b) The self-insured plan offered by the program shall cover hospice care at least  
2 equal to the Medicare benefit;
- 3 (c) The Personnel Cabinet shall provide written notice of any formulary change to  
4 employees covered under the self-insured plan who are directly impacted by  
5 the formulary change and to the Kentucky Group Health Insurance Board  
6 fifteen (15) days before implementation of any formulary change. If, after  
7 consulting with his or her physician, the employee still disagrees with the  
8 formulary change, the employee shall have the right to appeal the change. The  
9 employee shall have sixty (60) days from the date of the notice of the  
10 formulary change to file an appeal with the Personnel Cabinet. The cabinet  
11 shall render a decision within thirty (30) days from the receipt of the request  
12 for an appeal. After a final decision is rendered by the Personnel Cabinet, the  
13 employee shall have a right to file an appeal pursuant to the utilization review  
14 statutes in KRS 304.17A-600 to 304.17A-633. During the appeal process, the  
15 employee shall have the right to continue to take any drug prescribed by his or  
16 her physician that is the subject of the formulary changes;
- 17 (d) The Personnel Cabinet shall develop the necessary capabilities to ensure that  
18 an independent review of each formulary change is conducted and includes  
19 but is not limited to an evaluation of the fiscal impact and therapeutic benefit  
20 of the formulary change. The independent review shall be conducted by  
21 knowledgeable medical professionals and the results of the independent  
22 review shall be posted on the Web sites of the Personnel Cabinet and the  
23 Cabinet for Health and Family Services and made available to the public upon  
24 request within thirty (30) days of the notice from the Personnel Cabinet  
25 required in paragraph (c) of this subsection;
- 26 (e) If the self-insured plan restricts pharmacy benefits to a drug formulary, the  
27 plan shall comply with and have an exceptions policy in accordance with KRS

1 304.17A-535;

2 (f) Premiums for all plans offered by the Public Employee Health Insurance  
3 Program to employees shall be based on the experience of the entire group;  
4 and

5 (g) The plan year for the Public Employee Health Insurance Program, whether for  
6 fully insured or self-insured benefits, shall be on a calendar year basis.

7 (2) (a) 1. In addition to any fully insured health benefit plans or self-insured plans,  
8 beginning January 1, 2015, the Personnel Cabinet shall offer a health  
9 reimbursement account or health flexible spending account for public  
10 employees insured under the Public Employee Health Insurance  
11 Program.

12 2. The Personnel Cabinet may offer a health savings account in  
13 conjunction with a high deductible health plan option as defined by 26  
14 U.S.C. sec. 223(c)(2) or as an optional account to which the Personnel  
15 Cabinet may deposit funds of an employee who waives coverage in  
16 accordance with paragraph (b) of this subsection, provided the employee  
17 who waives coverage is eligible to contribute to a health savings  
18 account.

19 (b) If a public employee waives coverage provided by his or her employer under  
20 the Public Employee Health Insurance Program, the employer shall forward a  
21 monthly amount to be determined by the secretary of the Personnel Cabinet  
22 for that employee as an employer contribution to the health reimbursement  
23 account or health flexible spending account, but not less than one hundred  
24 seventy-five dollars (\$175) per month, subject to any conditions or limitations  
25 imposed by the secretary to comply with applicable federal law.

26 (c) The administrative fees associated with the employee's health savings account,  
27 health reimbursement account, or health flexible spending account shall be an

1 authorized expense to be charged to the public employee health insurance trust  
2 fund.

3 (3) (a) The public employee health insurance trust fund is established in the  
4 Personnel Cabinet. The purpose of the public employee health insurance trust  
5 fund is to provide funds to pay medical claims and other costs associated with  
6 the administration of the Public Employee Health Insurance Program self-  
7 insured plan under a competitively bid contract as provided by KRS Chapter  
8 45A and reviewed by the Government Contract Review Committee pursuant  
9 to KRS 45A.705. Unless authorized by the General Assembly, the trust fund  
10 shall not utilize funds for any other purpose and the trust fund receipts from  
11 prior plan years shall not be used to pay claims and expenses for current or  
12 subsequent plan years, except as provided by paragraph (b) of this subsection.

13 (b) In the event of a projected deficit in the trust fund balance of a prior plan year,  
14 the secretary of the Finance and Administration Cabinet may declare an  
15 emergency and transfer up to twenty-five percent (25%) of another prior plan  
16 year's balance to that plan year, provided the Governor, all members of the  
17 General Assembly, and Legislative Research Commission are notified at least  
18 thirty (30) days prior to the transfer. The Legislative Research Commission  
19 shall refer the notice to appropriate committees of jurisdiction for their review.

20 (c) The following moneys shall be directly deposited into the trust fund:

- 21 1. Employer and employee premiums collected under the self-insured plan;
- 22 2. Interest and investment returns earned by the self-insured plan;
- 23 3. Rebates and refunds attributed to the self-insured plan; and
- 24 4. All other receipts attributed to the self-insured plan.

25 (d) Any balance remaining in the public employee health insurance trust fund at  
26 the end of a fiscal year shall not lapse. Any balance remaining at the end of a  
27 fiscal year shall be carried forward to the next fiscal year and be used solely

1 for the purpose established in paragraphs (a) and (b) of this subsection. The  
2 balance of funds in the public employee health insurance trust fund shall be  
3 invested by the Office of Financial Management consistent with the  
4 provisions of KRS Chapter ~~41~~[42], and interest income shall be credited to the  
5 trust fund. Any balance for a specific plan year and any subsequent interest  
6 income for that specific plan year shall be accounted for separately.

7 (e) The Auditor of Public Accounts shall be responsible for a financial audit of  
8 the books and records of the trust fund. The audit shall be conducted in  
9 accordance with generally accepted accounting principles and shall be  
10 completed within ninety (90) days of the close of the fiscal year. All audit  
11 reports shall be filed with the Governor, the President of the Senate, the  
12 Speaker of the House of Representatives, and the secretary of the Personnel  
13 Cabinet.

14 (f) The secretary of the Personnel Cabinet shall file a quarterly report on the  
15 status of the trust fund with the Governor, the Interim Joint Committee on  
16 Appropriations and Revenue, the Kentucky Group Health Insurance Board,  
17 and the Advisory Committee of State Health Insurance Subscribers. The first  
18 status report shall be submitted no later than July 30, 2006, and subsequent  
19 reports shall be submitted no later than sixty (60) days following the end of  
20 each calendar quarter. The report shall include the following:

- 21 1. The current balance of the trust fund and the amount of the balance  
22 associated with each plan year;
- 23 2. A detailed description of all income to the trust fund since the last  
24 report;
- 25 3. A detailed description of any receipts due to the trust fund;
- 26 4. A total amount of payments made for medical and pharmacy claims  
27 from the trust fund by plan year;

- 1           5. A detailed description of all payments made to the third-party  
2           administrator of the self-insured plan by the trust fund;
- 3           6. Current enrollment data, including monthly enrollment since the last  
4           report, of the Public Employee Health Insurance Program self-insured  
5           plan;
- 6           7. Any other information the secretary may include;
- 7           8. Any other information requested by the Interim Joint Committee on  
8           Appropriations and Revenue concerning the operation of the Public  
9           Employee Health Insurance Program self-funded plan or the trust fund;  
10          and
- 11          9. In addition to the information required under subparagraphs 1. to 8. of  
12          this paragraph, the quarterly report filed in July and January shall also  
13          include the following:
- 14           a. A projection of the medical claims incurred but not yet reported  
15           that are considered liabilities to the trust fund;
- 16           b. A statement of any other trust fund liabilities;
- 17           c. A detailed calculation outlining proposed premium rates for the  
18           next plan year, including base claims, trend assumptions,  
19           administrative fees, and any proposed plan or benefit changes;
- 20           d. A detailed description of the current in-state and out-of-state  
21           networks provided under the plan, any changes to the networks  
22           since the last report, and any proposed changes to the in-state or  
23           out-of-state networks during the next six (6) months; and
- 24           e. Specific data regarding the third-party administrator's performance  
25           under the contract. The data shall include the following:
- 26           i. Any results or outcomes of disease management and  
27           wellness programs;



1       (a)~~]~~ ~~The Office of Financial Management, which shall be headed by an executive~~  
2             ~~director, shall have the duties and responsibilities established in KRS 42.410,~~  
3             ~~and shall serve as administrative staff to the Turnpike Authority of Kentucky.~~  
4             ~~The executive director shall serve as secretary to the authority;~~

5       (b)] The Office of Material and Procurement Services, which shall be headed by  
6             an executive director and shall have the duties established in KRS 42.024.  
7             There are established within the Office of Material and Procurement Services  
8             the following organizational entities:

9             1. The Division of Professional Services and Training, which shall be  
10             headed by a division director who is appointed by the secretary of the  
11             Finance and Administration Cabinet pursuant to KRS 12.050, and who  
12             shall report to the executive director; and

13            2. The Division of Contract Management, which shall be headed by a  
14             division director who is appointed by the secretary of the Finance and  
15             Administration Cabinet pursuant to KRS 12.050, and who shall report to  
16             the executive director;

17        **(b)**~~(e)]~~ The Division of Local Government Services, which shall be headed by a  
18             division director and shall be responsible for:

19             1. Providing property valuation administrators with fiscal, personnel,  
20             payroll, training, and other essential administrative support services;

21             2. Overseeing Kentucky's Social Security coverage program, including but  
22             not limited to all aspects of FICA wage reporting for state government  
23             and the Commonwealth's Social Security coverage agreement;

24             3. Serving as liaison between local governments and the federal Internal  
25             Revenue Service and Social Security Administration;

26             4. Serving as the payroll and fiscal officer for the sheriff and clerk in  
27             counties over seventy thousand (70,000) in population, disbursing

1 various reimbursements and expenditures to local governments and  
2 serving as liaison and conduit for all court fees associated with report of  
3 state money through the Circuit Courts;

4 5. Directing the federal employment tax program for state employees; and

5 6. Performing state government's duties relating to the county fee system  
6 for local entities;

7 ~~(c)~~~~(d)~~ The Office of Statewide Accounting Services, headed by an executive  
8 director appointed by the secretary of the Finance and Administration Cabinet,  
9 subject to the approval of the Governor. The executive director shall report  
10 directly to the state controller. The office shall perform financial record  
11 keeping functions at the state controller's direction, and shall be responsible  
12 for the performance of the cabinet's functions outlined in KRS 45.305, 48.800,  
13 and other related statutes. There is established within the Office of Statewide  
14 Accounting Services the Division of Customer Resource Center, which shall  
15 be headed by a division director appointed by the secretary pursuant to KRS  
16 12.050 and who shall report to the executive director of the Office of  
17 Statewide Accounting Services. The division shall be responsible for:

18 1. Providing a help desk for users of state government's financial and  
19 procurement system, including state employee users and vendors and  
20 payees of the Commonwealth who do, or would like to do, business with  
21 the state;

22 2. Training state employees in the use of state government's financial and  
23 procurement system; and

24 3. Assisting cabinet entities in improving the quality of their products and  
25 processes; and

26 ~~(d)~~~~(e)~~ The Division of State Risk and Insurance Services, headed by a division  
27 director appointed by the secretary of the Finance and Administration Cabinet,



1 subject to the approval of the Governor. The director shall report directly to  
2 the state controller and shall have the duties specified in KRS 42.0651.

3 ➔Section 11. KRS 42.409 is amended to read as follows:

4 As used in Section 3 of this Act~~[KRS 42.410]~~ and KRS 45.760, unless the context  
5 requires otherwise:

- 6 (1) "State total personal income" means the measure of all income received by or on  
7 behalf of persons in the Commonwealth, as most recently published in the Survey  
8 of Current Business by the United States Department of Commerce, Bureau of  
9 Economic Analysis.
- 10 (2) "Estimated state total personal income" means the personal income figure used by  
11 the~~[Governor's]~~ Office of Financial Management~~[for Economic Analysis]~~ to  
12 generate final detailed revenue estimates.
- 13 (3) "Total revenues" means revenues credited to the general fund and the road fund  
14 consistent with the provisions of KRS 48.120, as well as any restricted agency fund  
15 account from which debt service is expended.
- 16 (4) "Anticipated total revenues" means the official revenue estimates, as provided for in  
17 KRS 48.120, projected for the general fund and the road fund, as well as any  
18 restricted agency fund account from which debt service is expended.
- 19 (5) "Available revenues" means revenues credited to the general fund and the road fund  
20 consistent with the provisions of KRS 48.120, as well as any restricted agency fund  
21 account from which debt service is expended, minus any statutorily dedicated  
22 receipts of the respective funds.
- 23 (6) "Anticipated available revenues" means official revenue estimates, as provided for  
24 in KRS 48.120, projected for the general fund and the road fund, as well as any  
25 restricted agency fund account from which debt service is expended, minus any  
26 statutorily dedicated receipts of the respective funds.
- 27 (7) "Total assessed value of property" means state total net assessed value of property

1 for taxes due, as obtained from the Department of Revenue.

2 (8) "Per capita" means per unit of population, where population figures are the most  
3 recent available from the University of Louisville, Kentucky State Data Center.

4 (9) "Appropriation-supported debt service" means the amount of an appropriation  
5 identified to be expended for debt service purposes in the executive budget  
6 recommendation, and the amount of an appropriation expended for debt services in  
7 a completed fiscal year.

8 (10) "Appropriation-supported debt" means the outstanding principal of bonds issued by  
9 all state agencies and all individuals, agencies, authorities, boards, cabinets,  
10 commissions, corporations, or other entities of, or representing the Commonwealth  
11 with the authority to issue bonds, and for which debt service is appropriated by the  
12 General Assembly.

13 (11) "Nonappropriation-supported debt" means the outstanding principal of bonds issued  
14 by all state agencies and all individuals, agencies, authorities, boards, cabinets,  
15 commissions, corporations, or other entities of, or representing the Commonwealth  
16 with the authority to issue bonds, and for which debt service is not appropriated by  
17 the General Assembly.

18 (12) "Statutorily dedicated receipts" means revenues credited to the general fund and  
19 road fund consistent with the provisions of KRS 48.120, as well as any restricted  
20 agency fund account, which are required by an enacted statute to be used for a  
21 specific purpose. Statutorily dedicated receipts include, but are not limited to, the  
22 following:

23 (a) Receipts credited to the general fund which are subject to KRS 42.450 to  
24 42.495, KRS 278.130 to 278.150, or KRS 350.139;

25 (b) Receipts credited to the road fund which are subject to KRS 175.505, KRS  
26 177.320, KRS 177.365 to 177.369, KRS 177.9771 to 177.979, KRS 186.531,  
27 or KRS 186.535; and

1 (c) Receipts credited to a restricted agency fund account in accordance with any  
2 applicable statute.

3 (13) "True interest cost" means the bond yield according to issue price without a  
4 reduction for related administrative costs, and is the same figure as the arbitrage  
5 yield calculation described in the United States Tax Reform Act of 1986.

6 ➔Section 12. KRS 45A.840 is amended to read as follows:

7 As used in KRS 45A.840 to 45A.879, unless the context requires otherwise:

8 (1) "Bond counsel" means an attorney who provides legal counsel to a bond issuing  
9 agency with regard to bond issuance and provides an unqualified legal opinion to  
10 the agency with respect to validity and tax treatment;

11 (2) "Bond issuance" means the formulation, authorization, and issuance of bonds by a  
12 bond issuing agency;

13 (3) "Bond issuing agency" means the State Property and Buildings Commission,  
14 Kentucky Asset/Liability Commission, Turnpike Authority of Kentucky, Kentucky  
15 Housing Corporation, Kentucky Infrastructure Authority, Kentucky Higher  
16 Education Student Loan Corporation, Kentucky River Authority, Kentucky  
17 Agricultural Finance Corporation, Kentucky Local Correctional Facilities  
18 Construction Authority, School Facilities Construction Commission, Murray State  
19 University, Western Kentucky University, University of Louisville when it declines  
20 to exercise the authority granted under KRS 164A.585(1) and 164A.605, Northern  
21 Kentucky University, Kentucky State University, University of Kentucky when it  
22 declines to exercise the authority granted under KRS 164A.585(1) and 164A.605,  
23 Morehead State University, Eastern Kentucky University, and the Kentucky  
24 Community and Technical College System;

25 (4) "Bonds" means the revenue bonds, notes, or other debt obligations issued by a bond  
26 issuing agency;

27 (5) "Executive director" means the executive director of the Office of Financial

1 Management;

2 (6) "Office" means the Office of Financial Management established by Section 2 of this  
3 Act~~[KRS 42.0201]~~;

4 (7) "Underwriter" means:

5 (a) The financial institution which structures and underwrites the bond issuing  
6 agency's issuance of bonds; or

7 (b) The financial advisor or fiscal agent which provides advice or services to the  
8 bond issuing agency with respect to the structure, timing, terms, or other  
9 matters concerning bond issuance;

10 (8) "Underwriter's counsel" means an attorney who provides legal counsel to an  
11 underwriter with respect to its work on behalf of a bond issuing agency.

12 ➔Section 13. KRS 56.784 is amended to read as follows:

13 (1) Each agency responsible for managing state-owned property shall review the utility  
14 usage of the property and shall cooperate with the cabinet to determine which  
15 properties are good candidates for guaranteed energy savings performance contracts.  
16 The responsible agency is encouraged to implement guaranteed energy savings  
17 performance contracts where appropriate.

18 (2) The cabinet may implement the provisions of KRS 56.770 to 56.784 through the  
19 promulgation of administrative regulations pursuant to KRS Chapter 13A.

20 (3) The secretary of the cabinet shall promulgate administrative regulations in  
21 accordance with the provisions of KRS Chapter 13A establishing a process for  
22 procurement of energy savings performance contracts, including required contract  
23 language. The following entities shall adhere to these regulations when procuring  
24 services under a guaranteed energy savings performance contract:

25 (a) Any governing body of a postsecondary institution that manages its capital  
26 construction program under KRS 164A.580; or

27 (b) Any public corporation as defined by KRS 45.750(2)(c) or as created under

1           the Kentucky Revised Statutes as a governmental agency and instrumentality  
2           of the Commonwealth that manages its capital construction program.

3 (4) All state agencies, including those identified in subsection (3) of this section, shall  
4 submit proposed guaranteed energy savings performance contracts to the Office of  
5 Financial Management within the Office of the State Treasurer~~[Controller]~~ for  
6 review and approval prior to contract execution.

7 (5) The secretary shall report all authorized guaranteed energy savings performance  
8 contracts to the Capital Projects and Bond Oversight Committee for its review.

9           ➔Section 14. KRS 56.8177 is amended to read as follows:

10 All built-to-suit lease agreements shall be reviewed by the Office of Financial  
11 Management within the Office of the State Treasurer~~[Controller]~~ prior to execution on  
12 behalf of the Commonwealth by the secretary of the Finance and Administration Cabinet  
13 or on behalf of an institution in accordance with KRS 164A.630, and approved for form  
14 and legality by the Attorney General or an assistant attorney general, before they shall be  
15 binding against the Commonwealth. All the leases shall be lodged for record and  
16 recorded in the office of the county clerk of the county in which the leased property is  
17 located.

18           ➔Section 15. KRS 56.862 is amended to read as follows:

19 The Office of Financial Management within the Office of the State Treasurer~~[Controller]~~  
20 shall serve as staff to the commission. The executive director of the Office of Financial  
21 Management shall serve as secretary to the commission. The commission shall coordinate  
22 with the Office of the Controller to ensure that the necessary financial data is made  
23 available.

24           ➔Section 16. KRS 56.863 is amended to read as follows:

25 The commission shall have the power and duty to:

26 (1) Maintain the records and perform the functions necessary and proper to accomplish  
27 the purposes of KRS 56.860 to 56.869;

- 1 (2) Promulgate administrative regulations relating to KRS 56.860 to 56.869;
- 2 (3) Conduct analysis to determine the impact of fluctuating receipts of revenues on the  
3 budget of the Commonwealth, fluctuating interest rates upon the interest-sensitive  
4 assets and interest-sensitive liabilities of the Commonwealth, and the resulting  
5 change in the net interest margin on the budget of the Commonwealth;
- 6 (4) Develop strategies to mitigate the impact of fluctuating receipts of revenues on the  
7 budget of the Commonwealth and of fluctuating interest rates on the  
8 Commonwealth's interest-sensitive assets and interest-sensitive liabilities;
- 9 (5) Report its findings to the State Investment Commission at least annually to assist  
10 the State Investment Commission in developing and implementing its investment  
11 strategy. The State Investment Commission shall provide the commission with a  
12 copy of its monthly investment income report to aid the commission in developing  
13 and implementing its strategies;
- 14 (6) Issue funding notes, project notes, and tax and revenue anticipation notes or other  
15 obligations on behalf of any state agency to fund authorized projects or to satisfy  
16 judgments;
- 17 (7) Refund any funding notes, project notes, or tax and revenue anticipation notes  
18 issued under KRS 56.860 to 56.869 to achieve economic savings, to better match  
19 receipts with expenditures, or as a part of a continuing finance program;
- 20 (8) Designate individual employees or officers of the Office of Financial Management  
21 within the Office of the State Treasurer~~Controller~~ as agents for purposes of  
22 approving the principal amount of tax and revenue anticipation notes, the interest  
23 rate, the discount, maturity date, and other relevant terms of tax and revenue  
24 anticipation notes, project notes, and funding notes or refunding notes issued within  
25 constraints established by the commission and to execute agreements, including  
26 notes and financial agreements, for the commission;
- 27 (9) Enter into financial agreements for the purpose of hedging its current or projected

- 1 interest-sensitive assets and interest-sensitive liabilities to stabilize the  
2 Commonwealth's net interest margin, as deemed necessary by the commission,  
3 subject to administrative regulations promulgated by the commission that limit the  
4 net exposure of the Commonwealth as a result of these financial agreements;
- 5 (10) Deposit net interest payments and premiums received by the commission under  
6 financial agreements into a restricted account, which shall not lapse at the end of the  
7 fiscal year but shall continue to accumulate to act as security for these financial  
8 agreements. This duty is mandatory in nature. Any accumulated funds in excess of  
9 the amount determined by the commission to be necessary to establish this security  
10 may be applied to debt service payments, net interest payments, and premiums and  
11 expenses related to interest-sensitive liabilities; and
- 12 (11) Report to the Capital Projects and Bond Oversight Committee and the Interim Joint  
13 Committee on Appropriations and Revenue on a semiannual basis, by September 30  
14 and March 31 of each year, the following:
- 15 (a) A description of the Commonwealth's investment and debt structure;
- 16 (b) The plan developed to mitigate the impact of fluctuating revenue receipts on  
17 the budget of the Commonwealth and fluctuating interest rates on the interest-  
18 sensitive assets and interest-sensitive liabilities of the Commonwealth,  
19 including an analysis of the impact that a change in the net interest margin  
20 would have on the budget of the Commonwealth. The report due by March 31  
21 of each year shall reflect the strategy for January through June of the fiscal  
22 year, and the report due by September 30 shall reflect the strategy for July  
23 through December of the fiscal year;
- 24 (c) The principal amount of notes issued, redeemed, and outstanding; and a  
25 description of all financial agreements entered into during the reporting  
26 period. The report due by March 31 shall include information about  
27 agreements entered into from July through December of the fiscal year. The

1 report due by September 30 shall include information about agreements  
2 entered into between January and June of the prior fiscal year; and

3 (d) A summary of gains and losses associated with financial agreements and any  
4 other cash flow strategies undertaken by the commission to mitigate the effect  
5 of fluctuating interest rates during each reporting period. The report due by  
6 March 31 shall include information about agreements and strategies entered  
7 into or undertaken from July through December of the fiscal year. The report  
8 due by September 30 shall include information about agreements and  
9 strategies entered into or undertaken from January through June of the prior  
10 fiscal year.

11 ➔Section 17. KRS 65.028 is amended to read as follows:

12 (1) As used in this section:

13 (a) "Best value" has the same meaning as in KRS 65.025;

14 (b) "Cabinet" means the Finance and Administration Cabinet;

15 (c) "Local government" means a city, county, charter county, urban-county  
16 government, consolidated local government, or unified local government of  
17 the Commonwealth;

18 (d) "Private partner" has the same meaning as in KRS 65.025; and

19 (e) "Public-private partnership" has the same meaning as in KRS 65.025.

20 (2) A public-private partnership delivery method may be utilized by a local government  
21 as provided in this section and administrative regulations promulgated thereunder.  
22 Contracts using this method shall be awarded by competitive negotiation on the  
23 basis of best value, and shall in all cases take effect only if executed by the  
24 legislative body of the local government. The provisions of KRS 65.025(2) to (4)  
25 shall not apply to public-private partnerships utilized by local governments.

26 (3) A local government utilizing a public-private partnership shall continue to be  
27 responsible for oversight of any function that is delegated to or otherwise performed



1 by a private partner.

2 (4) A public-private partnership shall not be used to circumvent any requirements or  
3 restrictions placed upon any local government pursuant to any provision of the  
4 Kentucky Revised Statutes.

5 (5) All public-private partnership agreements executed by a local government or any of  
6 its agencies under this section shall be approved by the legislative body of the local  
7 government at a public meeting, and shall include at a minimum the following  
8 provisions:

9 (a) 1. Property owned by a local government shall not be sold, conveyed, or  
10 disposed of in any way at any time; and

11 2. Leases issued by a local government to any party shall not be transferred  
12 in any way by that party;

13 without the specific and express written consent of the legislative body of the  
14 local government;

15 (b) Require the private partner to provide or cause to be provided performance  
16 and payment bonds on the design and construction portion of the agreement as  
17 required under KRS 45A.435 and maintenance bonds, warranties, guarantees,  
18 and letters of credit in connection with the private partner's other activities  
19 under the agreement, in the forms and amounts satisfactory to the local  
20 government and in amounts necessary to provide adequate protection to the  
21 local government;

22 (c) Review and approval of plans and specifications for the project by the local  
23 government;

24 (d) Inspection of the project by the local government to ensure that the private  
25 partner's actions are acceptable to the local government in accordance with the  
26 agreement;

27 (e) Maintenance of public liability insurance or self-insurance, in form and

- 1 amount satisfactory to the local government and reasonably sufficient to  
2 insure coverage of tort liability to the public and employees and to enable the  
3 continued operation of the project;
- 4 (f) Reimbursement to be paid to the local government for services provided by  
5 the local government;
- 6 (g) Filing of appropriate financial statements by the private partner on a periodic  
7 basis;
- 8 (h) Policies and procedures governing the rights and responsibilities of the local  
9 government and the private partner in the event the public-private partnership  
10 agreement is terminated or there is a material default by the private partner.  
11 These policies and procedures shall include conditions governing assumption  
12 of the duties and responsibilities of the private partner by the local  
13 government, and the transfer or purchase of property or other interests of the  
14 private partner by the local government;
- 15 (i) Any fees or payments as may be established by agreement of the private  
16 partner and the local government;
- 17 (j) A detailed description of all duties and requirements of the private partner;
- 18 (k) The ability of a private partner or partners to quickly respond to the needs  
19 presented in the request for proposal, and the importance of economic  
20 development opportunities represented by the qualifying project. In evaluating  
21 proposals, preference shall be given to a plan that includes the involvement of  
22 small businesses as subcontractors, to the extent that small businesses can  
23 provide services in a competitive manner, unless any preference interferes  
24 with the qualification for federal or other funds; and
- 25 (l) Any other information necessary to properly address the life cycle of the  
26 agreement, including the disposition of assets if or when the public-private  
27 partnership agreement is terminated or otherwise concludes.

- 1 (6) (a) On or before December 31, 2016, the secretary of the Finance and  
2 Administration Cabinet shall promulgate administrative regulations setting  
3 forth criteria to be used by a local government employing a public-private  
4 partnership for a particular project, and establishing a process for public-  
5 private partnership procurement undertaken by local governments consistent  
6 with this section. Prior to submission of the proposed administrative  
7 regulations pursuant to the regulatory process required by KRS Chapter 13A,  
8 the proposed administrative regulations shall be approved by the Kentucky  
9 Local Government Public-Private Partnership Board established by subsection  
10 (11) of this section.
- 11 (b) The secretary shall consult with design-builders, construction managers,  
12 contractors, design professionals including engineers and architects, and other  
13 appropriate professionals during the development of these administrative  
14 regulations.
- 15 (c) The secretary shall have the authority to contract with a consultant, pursuant  
16 to KRS 45A.695, to assist the cabinet and the Kentucky Local Government  
17 Public-Private Partnership Board with the review process required in  
18 subsection (12) of this section. The secretary may, through administrative  
19 regulation, impose a reasonable fee on the private partner to defray the cost of  
20 the review required in subsection (12) of this section, including any expenses  
21 or fees incurred in contracting with a consultant.
- 22 (d) If the secretary fails to timely promulgate administrative regulations pursuant  
23 to this subsection, local governments may then act pursuant to this section  
24 including compliance with the process outlined in subsection (12) of this  
25 section, in the absence of administrative regulations.
- 26 (7) A request for proposal for a local government project utilizing a public-private  
27 partnership shall include at a minimum:

- 1 (a) The parameters of the proposed public-private partnership agreement;
- 2 (b) The duties and responsibilities to be performed by the private partner or  
3 partners;
- 4 (c) The methods of oversight to be employed by the local government;
- 5 (d) The duties and responsibilities that are to be performed by the local  
6 government and any other partners to the contract;
- 7 (e) The evaluation factors and the relative weight of each to be used in the scoring  
8 of awards; and
- 9 (f) Other information required by a local government to evaluate the proposals  
10 submitted by respondents and the overall proposed public-private partnership.
- 11 (8) A private entity desiring to be a private partner shall demonstrate to the satisfaction  
12 of the local government that it is capable of performing any duty, responsibility, or  
13 function it may be authorized or directed to perform as part of the public-private  
14 partnership agreement.
- 15 (9) When a request for proposal for a project utilizing a public-private partnership is  
16 issued, the local government shall transmit a copy of the request for proposal to the  
17 cabinet and to the Department for Local Government.
- 18 (10) A request for proposal or other solicitation may be canceled, or all proposals may be  
19 rejected, if it is determined in writing that the action is taken in the best interest of  
20 the local government and approved by the legislative body.
- 21 (11) (a) There is established within the cabinet the Kentucky Local Government  
22 Public-Private Partnership Board, composed of eleven (11) members as  
23 follows:
- 24 1. The secretary of the cabinet, or the secretary's designee;
- 25 2. Two (2) individuals appointed by the Kentucky League of Cities, both of  
26 whom shall have experience in municipal financial operations;
- 27 3. Two (2) individuals appointed by the Kentucky Association of Counties,

- 1 both of whom shall have experience in county financial operations, one  
2 (1) to be recommended by the Kentucky County Judge/Executive  
3 Association and one (1) to be recommended by the Kentucky County  
4 Magistrates and Commissioners Association;
- 5 4. The commissioner of the Department for Local Government, or the  
6 commissioner's designee;
- 7 5. The executive director of the Office of Financial Management within the  
8 Office of the State Treasurer~~[cabinet]~~, or the executive director's  
9 designee;
- 10 6. The Auditor of Public Accounts, or the Auditor's designee;
- 11 7. One (1) citizen member appointed by the Governor, who shall have  
12 experience and knowledge in local government debt and financial  
13 operations; and
- 14 8. Two (2) members of the Kentucky General Assembly, one (1) appointed  
15 by the President of the Senate and one (1) appointed by the Speaker of  
16 the House of Representatives, each of whom shall serve in a nonvoting  
17 ex officio capacity and shall not be considered for purposes of  
18 determining a quorum.
- 19 (b) Members of the board shall begin their terms on August 1, 2016, and shall  
20 serve for a term of four (4) years.
- 21 (c) Board members appointed under paragraph (a)2. and 3. of this subsection may  
22 send a designee with similar experience to meetings for which they are  
23 unavailable.
- 24 (d) Vacancies occurring in the term of any member shall be filled in the same  
25 manner as the original appointment.
- 26 (e) The members of the board shall receive no compensation for their services.
- 27 (f) The secretary of the cabinet, or the secretary's designee, shall serve as chair of

1 the board and the members shall elect a vice chair from among the  
2 membership of the board. The vice chair may preside over meetings of the  
3 board in the absence of the chair.

4 (g) The board shall meet at least once per year, and as needed for the timely  
5 consideration of proposed projects. A majority of the members of the board  
6 shall constitute a quorum.

7 (h) The secretary of the cabinet shall be responsible for providing staff support  
8 and maintaining complete records of the board's actions and proceedings, as  
9 public records open to inspection.

10 (12) (a) Upon the initial issuance of a public-private partnership agreement having a  
11 total contractual value that equals or exceeds thirty percent (30%) of the  
12 general fund revenues received by the local government in the immediately  
13 preceding fiscal year, the local government shall submit the agreement to the  
14 cabinet for the sole purpose of making an evaluation to the Kentucky Local  
15 Government Public-Private Partnership Board of the following:

- 16 1. Whether the agreement meets the requirements of subsection (5) of this  
17 section;
- 18 2. An analysis of the overall project's economic and financial viability  
19 within the scope of available or proposed financing arrangements and  
20 expected revenues; and
- 21 3. Whether the agreement adheres to the procurement process required by  
22 subsection (2) of this section.

23 Public-private partnership agreements having a total contractual value that is  
24 less than thirty percent (30%) of the general fund revenues received by the  
25 local government in the immediately preceding fiscal year shall not be  
26 required to be submitted to the cabinet or the Kentucky Local Government  
27 Public-Private Partnership Board.

- 1 (b) The local government shall submit any information required by the cabinet,  
2 relating to the agreement and its procurement, to enable the cabinet to conduct  
3 this evaluation.
- 4 (c) The cabinet shall acknowledge receipt of the agreement within thirty (30)  
5 days, and after evaluation thereof shall, within ninety (90) days of its receipt,  
6 forward the results of its evaluation separately to each individual member of  
7 the Kentucky Local Government Public-Private Partnership Board. The full  
8 board shall meet within sixty (60) days of the issuance of the cabinet's  
9 evaluation to consider the evaluation provided by the cabinet and approve or  
10 disapprove the proposed agreement. If the board disapproves the project, the  
11 board shall provide specific reasons for its disapproval. If the board approves  
12 the project, the cabinet shall return the agreement to the local government  
13 legislative body for final execution thereof. No public-private partnership  
14 agreement issued by a local government that is subject to evaluation by the  
15 cabinet and review and approval by the Kentucky Local Government Public-  
16 Private Partnership Board pursuant to paragraph (a) of this subsection shall  
17 take effect unless and until it is approved by the Kentucky Local Government  
18 Public-Private Partnership Board pursuant to this subsection and is found by  
19 the board to meet the requirements of this section and to be economically  
20 viable as provided in this subsection.
- 21 (d) If an agreement is not approved by the board, the local government submitting  
22 the agreement may modify the agreement and resubmit it for reconsideration  
23 in accordance with this section.
- 24 (13) The Commonwealth shall bear no liability for public-private partnership agreements  
25 approved pursuant to subsection (12) of this section.
- 26 (14) Upon approval and execution of a public-private partnership agreement, the local  
27 government shall transmit a copy of the agreement to the Department for Local

1 Government.

2 (15) The Auditor of Public Accounts may periodically review public-private partnership  
3 agreements executed by a local government pursuant to this section, and any actions  
4 undertaken by private partners and local governments thereunder, to evaluate  
5 compliance with the agreement and this section.

6 (16) Multiple local governments, acting in accordance with KRS 65.210 to 65.300, may  
7 jointly enter into a public-private partnership pursuant to this section. Public-private  
8 partnership agreements involving multiple local governments shall only be required  
9 to be submitted to the cabinet for evaluation and to the Kentucky Local Government  
10 Public-Private Partnership Board for review and approval, as provided by  
11 subsection (12) of this section, if the total contractual value equals or exceeds thirty  
12 percent (30%) of the combined general fund revenues received in the immediately  
13 preceding fiscal year by all local governments participating in the agreement.

14 (17) (a) A person or business may submit an unsolicited proposal to a local  
15 government, which may receive the unsolicited proposal.

16 (b) Within ninety (90) days of receiving an unsolicited proposal, a local  
17 government may elect to consider further action on the proposal, at which  
18 point the local government shall provide public notice of the proposal  
19 pursuant to KRS Chapter 424 or electronically on the Web site of the local  
20 government, and shall:

21 1. Provide specific information regarding the proposed nature, timing, and  
22 scope of the unsolicited proposal, except that trade secrets, financial  
23 records, or other records of the person or business making the proposal  
24 shall not be posted unless otherwise agreed to by the local government  
25 and the person or business; and

26 2. Provide for a notice period of at least thirty (30) days and no more than  
27 ninety (90) days for the submission of competing proposals.



1 (c) Upon the end of the notice period provided under paragraph (b)2. of this  
2 subsection, the local government may consider the unsolicited proposal and  
3 any competing proposals received. If the local government determines it is in  
4 the best interest of the local government to implement some or all of the  
5 concepts contained within the unsolicited proposal or competing proposals  
6 received by it, the local government may begin an open, competitive  
7 procurement process to do so pursuant to this section.

8 (d) An unsolicited proposal shall be deemed rejected if no written response is  
9 received from the local government within ninety (90) days after submission,  
10 during which time the governmental body has not taken any action on the  
11 proposal under paragraph (b) of this subsection.

12 ➔Section 18. KRS 131.020 is amended to read as follows:

13 (1) The Department of Revenue, headed by a commissioner appointed by the secretary  
14 with the approval of the Governor, shall be organized into the following functional  
15 units:

16 (a) Office of the Commissioner, which shall consist of:

17 1. The Division of Protest Resolution, headed by a division director who  
18 shall report directly to the commissioner. The division shall administer  
19 the protest functions for the department from office resolution through  
20 court action; and

21 2. The Division of Taxpayer Ombudsman, headed by a division director  
22 who shall report to the commissioner. The division shall perform those  
23 duties set out in KRS 131.083;

24 (b) Office of Tax Policy and Regulation, headed by an executive director who  
25 shall report directly to the commissioner. The office shall be responsible for:

26 1. Providing oral and written technical advice on Kentucky tax law;  
27 2. Drafting proposed tax legislation and regulations;

- 1           3.    Testifying before legislative committees on tax matters;
- 2           4.    Analyzing tax publications;
- 3           5.    Providing expert witness testimony in tax litigation cases;
- 4           6.    Providing consultation and assistance in protested tax cases; and
- 5           7.    Conducting training and education programs;

6           (c)   Office of Processing and Enforcement, headed by an executive director who  
7           shall report directly to the commissioner. The office shall be responsible for  
8           processing documents, depositing funds, collecting debt payments, and  
9           coordinating, planning, and implementing a data integrity strategy. The office  
10          shall consist of the:

- 11          1.    Division of Operations, which shall be responsible for opening all tax  
12           returns, preparing the returns for data capture, coordinating the data  
13           capture process, depositing receipts, maintaining tax data, and assisting  
14           other state agencies with similar operational aspects as negotiated  
15           between the department and the other agency;
- 16          2.    Division of Collections, which shall be responsible for initiating all  
17           collection enforcement activity related to due and owing tax  
18           assessments, including protest resolution, and for assisting other state  
19           agencies with similar collection aspects as negotiated between the  
20           department and the other state agency;
- 21          3.    Division of Registration and Data Integrity, which shall be responsible  
22           for registering businesses for tax purposes, ensuring that the data entered  
23           into the department's tax systems is accurate and complete, and assisting  
24           the taxing areas in proper procedures to ensure the accuracy of the data  
25           over time; and
- 26          4.    Division of Application Development and Support, which shall be  
27           responsible for providing project management, planning, analysis,

1 application development, implementation, security, support and  
2 maintenance for new and legacy systems of the Department of Revenue;

3 (d) Office of Property Valuation, headed by an executive director who shall report  
4 directly to the commissioner. The office shall consist of the:

5 1. Division of Local Support, which shall be responsible for providing  
6 supervision, assistance, and training to the property valuation  
7 administrators and sheriffs within the Commonwealth;

8 2. Division of State Valuation, which shall be responsible for providing  
9 assessments of public service companies and motor vehicles, and  
10 providing assistance to property valuation administrators and sheriffs  
11 with the administration of tangible and omitted property taxes within the  
12 Commonwealth; and

13 3. Division of Minerals Taxation and Geographical Information System  
14 Services, which shall be responsible for providing geographical  
15 information system mapping support, ensuring proper filing of severance  
16 tax returns, ensuring consistency of unmined coal assessments, and  
17 gathering and providing data to properly assess minerals to the property  
18 valuation administrators within the Commonwealth;

19 (e) Office of Sales and Excise Taxes, headed by an executive director who shall  
20 report directly to the commissioner. The office shall administer all matters  
21 relating to sales and use taxes and miscellaneous excise taxes, including but  
22 not limited to technical tax research, compliance, taxpayer assistance, tax-  
23 specific training, and publications. The office shall consist of the:

24 1. Division of Sales and Use Tax, which shall administer the sales and use  
25 tax; and

26 2. Division of Miscellaneous Taxes, which shall administer various other  
27 taxes, including but not limited to alcoholic beverage taxes; cigarette

1 enforcement fees, stamps, meters, and taxes; gasoline tax; bank  
2 franchise tax; inheritance and estate tax; insurance premiums and  
3 insurance surcharge taxes; motor vehicle tire fees and usage taxes; and  
4 special fuels taxes;

5 (f) Office of Income Taxation, headed by an executive director who shall report  
6 directly to the commissioner. The office shall administer all matters related to  
7 income and corporation license taxes, including technical tax research,  
8 compliance, taxpayer assistance, tax-specific training, and publications. The  
9 office shall consist of the:

- 10 1. Division of Individual Tax, which shall administer the following taxes  
11 or returns: individual income, fiduciary, and employer withholding; and
- 12 2. Division of Corporation Tax, which shall administer the corporation  
13 income tax, corporation license tax, pass-through entity withholding,  
14 and pass-through entity reporting requirements; and

15 (g) Office of Field Operations, headed by an executive director who shall report  
16 directly to the commissioner. The office shall manage the regional taxpayer  
17 service centers and the field audit program.

18 (2) The functions and duties of the department shall include conducting conferences,  
19 administering taxpayer protests, and settling tax controversies on a fair and  
20 equitable basis, taking into consideration the hazards of litigation to the  
21 Commonwealth of Kentucky and the taxpayer. The mission of the department shall  
22 be to afford an opportunity for taxpayers to have an independent informal review of  
23 the determinations of the audit functions of the department, and to attempt to fairly  
24 and equitably resolve tax controversies at the administrative level.

25 (3) The department shall maintain an accounting structure for the one hundred twenty  
26 (120) property valuation administrators' offices across the Commonwealth in order  
27 to facilitate use of the state payroll system and the budgeting process.

1 (4) Except as provided in KRS 131.190(4), the department shall fully cooperate with  
2 and make tax information available as prescribed under KRS 131.190(3) to the  
3 ~~Governor's~~ Office **of Financial Management**~~[for Economic Analysis]~~ as necessary  
4 for the office to perform the tax administration function established in **Section 3 of**  
5 **this Act**~~[KRS 42.410]~~.

6 (5) Executive directors and division directors established under this section shall be  
7 appointed by the secretary with the approval of the Governor.

8 ➔Section 19. KRS 151.730 is amended to read as follows:

9 (1) The authority is hereby authorized to provide, at one (1) time or from time to time,  
10 for the issuance of its revenue bonds for the purpose of paying all or any part of the  
11 cost of any one (1) or more projects undertaken pursuant to KRS 151.720. The  
12 principal of and the interest on such bonds shall in each instance be payable solely  
13 from a special fund provided for the payment, with revenues derived from water use  
14 fees collected from all facilities using water from the Kentucky River basin, except  
15 those facilities using water primarily for agricultural purposes, pledged to be set  
16 aside and deposited in such special fund. The bonds of any issue may be in one (1)  
17 or more series and any one (1) or more such series may enjoy equal or subordinate  
18 status with respect to the pledge of funds from which they are payable, shall be  
19 dated, shall bear interest, shall mature at such time or times not exceeding the  
20 thirtieth anniversary of their respective dates, all as may be provided by the  
21 authority, and may be made redeemable before maturity, at the option of the  
22 authority, at such price or prices and under such terms and conditions as may be  
23 fixed by the authority prior to the issuance of the bonds. The authority shall  
24 determine the form of bonds including any interest coupons to be attached thereto,  
25 and shall fix the denomination or denominations of the bonds and the place or  
26 places for payment of principal and interest, which may be at any bank or trust  
27 company within or without the Commonwealth. The bonds shall be signed by the

1 facsimile signature of the chairman of the authority, and the seal of the authority or  
2 a facsimile thereof shall be affixed thereto and attested by the manual signature of  
3 the treasurer of the authority, and any coupons attached thereto shall bear the  
4 facsimile signature of the chairman of the authority. In case any officer whose  
5 signature or a facsimile of whose signature shall appear on any bonds or coupons  
6 shall cease to be such officer before the delivery of such bonds, such signature or  
7 such facsimile shall nevertheless be valid and sufficient for all purposes the same as  
8 if he had remained in office until such delivery. All bonds issued under the  
9 provisions of this section shall have and are hereby declared to have all qualities  
10 and incidents of negotiable instruments under the uniform commercial code of the  
11 Commonwealth. The bonds may be issued in coupon or in registered form, or both,  
12 as the authority may determine, and provision may be made for the registration of  
13 any coupon bonds as to principal alone and also as to both principal and interest,  
14 and for the reconversion into coupon bonds of any bonds registered as to both  
15 principal and interest. The authority may sell such bonds at public sale, and for such  
16 price as it may determine will best effect the purposes of KRS 151.720.

17 (2) The proceeds of the bonds of each issue shall be used solely for the payment of the  
18 cost of the project or projects for which such bonds shall have been issued, and shall  
19 be disbursed in such a manner and under such restrictions, if any, as the authority  
20 may provide in the proceedings authorizing the issuance of such bonds or in the  
21 trust indenture securing the same. If the proceeds of the bonds of any issue, by error  
22 of estimates or otherwise, shall be less than such cost, additional bonds may in like  
23 manner be issued to provide the amount of such deficit, and, unless otherwise  
24 provided in the proceedings authorizing the issuance of such bonds or in the trust  
25 indenture securing the same, shall be deemed to be of the same issue and shall be  
26 entitled to payment from the same fund without preference or priority of the bonds  
27 first issued. If the proceeds of the bonds of any issue shall exceed such cost, the

1 surplus shall be deposited to the credit of the sinking fund or funds for such bonds  
2 or any account or accounts therein as the authority shall have provided in the  
3 proceedings or trust indenture authorizing and securing such bonds.

4 (3) Prior to the preparation of definitive bonds, the authority may, under like  
5 restrictions, issue interim receipts or temporary bonds, with or without coupons,  
6 exchangeable for definitive bonds when such bonds shall have been executed and  
7 are available for delivery. The authority may also provide for the replacement of any  
8 bonds which shall become mutilated or shall be destroyed or lost.

9 (4) The authority may issue revenue bond anticipation notes.

10 (5) Any holder of bonds issued under the provisions of this section or any of the  
11 coupons appertaining thereto, and the trustee under any trust indenture, except to  
12 the extent of the rights given in this section, may be restricted by such trust  
13 indenture or proceedings, may, either at law or in equity, by suit, action, mandamus,  
14 or other proceedings, protect and enforce any and all rights under the laws of the  
15 Commonwealth or granted under this section or under such trust indenture or the  
16 proceedings authorizing the issuance of such bonds, and may enforce and compel  
17 the performance of all duties required by this section or by such trust indenture or  
18 proceedings to be performed by the authority or by any officer or employee thereof.

19 (6) Revenue bonds issued under the provisions of this section shall not be a debt,  
20 liability, or obligation of the Commonwealth or any political subdivision thereof  
21 and shall not be a pledge of the faith and credit of the Commonwealth or any  
22 political subdivision thereof.

23 (7) Revenue bonds issued by the authority shall be subject to the jurisdiction and  
24 approval of the State Property and Buildings Commission and the Capital Projects  
25 and Bond Oversight Committee and shall be subject to review by the Office of  
26 Financial Management established in Section 2 of this Act ~~[KRS 42.0201]~~.

27 (8) The authority shall not be required to pay any taxes and assessments to the

1 Commonwealth or any county, municipality, or other governmental subdivision of  
2 the Commonwealth upon any of its property or upon its obligations or other  
3 evidences of indebtedness pursuant to the provisions of this section, or upon any  
4 moneys, funds, revenues, or other income held or received by the authority and the  
5 bonds or notes of the authority and the income therefrom shall at all times be  
6 exempt from taxation, except for death and gift taxes and taxes of transfers.

7 (9) Contractual expenses to construct, reconstruct, provide for the major maintenance,  
8 or repair the Kentucky River locks and dams, or to maintain the channel, or to  
9 acquire real or personal property pertaining thereto, or to construct, reconstruct,  
10 maintain, or repair such property, shall be paid from the proceeds of the revenue  
11 bonds. Expenses for administrative services and necessary travel expenses and per  
12 diem compensation of authority members, shall not be paid from the proceeds of the  
13 revenue bonds. Nor shall the cabinet's cost of operating the locks be paid from the  
14 proceeds of the revenue bonds.

15 ➔Section 20. KRS 153.180 is amended to read as follows:

16 (1) There is hereby established a nonprofit foundation to be known as the Kentucky  
17 Foundation for the Arts. The purpose of the foundation shall be to enhance the  
18 stability of Kentucky's arts organizations and to ensure Kentuckians have access to  
19 the arts through the support of an endowment fund.

20 (2) Funding for the foundation shall be obtained through state appropriations, gifts,  
21 grants, and any other funds from the public and private sectors. The foundation  
22 board shall have the authority to solicit, accept, and receive contributions from the  
23 public and private sectors to match public funding. Moneys in the foundation fund  
24 shall not lapse to the general fund at the end of the fiscal year. Moneys in the  
25 foundation fund shall be invested by the Office of Financial Management  
26 established in Section 2 of this Act and~~[KRS 42.0201]~~ consistent with the  
27 provisions of KRS Chapter ~~41~~<sup>42</sup>, and interest income earned shall be credited to



1 the foundation fund. The foundation board may use the investment income for the  
2 purpose of awarding matching grants to nonprofit arts organizations to carry out the  
3 following programs:

4 (a) The Performing Arts and Visual Arts Touring Subsidy Program shall support  
5 tours and exhibitions for the education and enjoyment of audiences throughout  
6 the state; and

7 (b) The Institutional Stabilization Program shall provide operating funds to  
8 achieve short-term or long-term stability of arts organizations.

9 (3) The foundation shall be governed by a board of trustees consisting of six (6)  
10 members appointed by the Governor on recommendations from the Kentucky Arts  
11 Council. For the initial appointments, the Governor shall appoint two (2) members  
12 to serve two (2) year terms; two (2) members to serve three (3) year terms; and two  
13 (2) members to serve four (4) year terms. Thereafter, the Governor shall make all  
14 appointments for a term of four (4) years. The board shall elect by majority vote a  
15 chair and other officers deemed necessary. Board members shall not receive any  
16 compensation for their services, but may be reimbursed in accordance with the  
17 provisions of KRS 49.040 and 45.101 for actual and necessary expenses incurred in  
18 the performance of their duties.

19 (4) The foundation board shall perform duties and responsibilities deemed necessary to  
20 fulfill the purposes of this section. The foundation board shall establish by  
21 administrative regulation procedures for administration of the foundation, eligibility  
22 criteria for the award of grants, appropriate matching contributions from grant  
23 recipients, and evaluation and reporting requirements.

24 (5) The foundation shall be attached to the Office of the Secretary of the Tourism, Arts  
25 and Heritage Cabinet for administrative purposes only. The Kentucky Arts Council  
26 shall provide to the foundation by agreement staff support and office facilities for  
27 which reasonable charges and fees may be levied against the foundation fund.

1 (6) The foundation board shall submit an annual report to the Governor and the  
2 Legislative Research Commission listing the sources of funds acquired and  
3 expended.

4 ➔Section 21. KRS 154.10-035 is amended to read as follows:

5 (1) Notwithstanding any other provisions of the Kentucky Revised Statutes, the board  
6 is authorized to exercise the following power:

7 (a) The board may provide for the issuance of economic development revenue  
8 bonds by the cabinet, for the purpose of providing funds and moneys to enable  
9 the cabinet to exercise and fulfill the powers and authority set forth in KRS  
10 154.10-030, to enter into agreements with governmental agencies and private  
11 companies, corporations, partnerships, and other such entities, acquire and  
12 lease projects to governmental agencies and private companies, corporations,  
13 cabinets, and other such entities, purchase obligations of governmental  
14 agencies issued for economic development projects, and make loans or grants  
15 for economic development projects, and to enable the cabinet generally to  
16 carry out and effectuate its proper purposes under this chapter. In anticipation  
17 of the issuance of the revenue bonds, the board may provide for the issuance  
18 at one (1) time, or from time to time, of revenue bond anticipation notes  
19 pursuant to the general laws of the state. The principal of and the interest on  
20 the revenue bonds or notes shall be payable solely from revenues made  
21 available to the cabinet for bond purposes. Any such notes may be made  
22 payable from the proceeds of bonds or renewal notes, or in the event bond or  
23 renewal note proceeds are not available, or should the board deem it  
24 financially practicable to pay the notes directly from revenues made available  
25 to the cabinet for bond purposes, the notes may be paid from any revenues  
26 made available to the cabinet for bond purposes. Prior to the issuance of the  
27 bonds or notes, the cabinet shall submit any proposed issue to the Capital

1           Projects and Bond Oversight Committee for its review and determination in  
2           accordance with provisions of KRS 45.810.

3           (b) The revenue bonds or notes of the cabinet shall be dated and may be  
4           redeemable prior to maturity at the option of the board at prices and under  
5           terms and conditions determined by the board. Any bonds or notes shall bear  
6           interest at the rate or rates, shall be payable annually or at shorter intervals,  
7           and may bear conversion privileges determined by the board. Notes shall  
8           mature at the time or times not exceeding five (5) years from their date or  
9           dates, and revenue bonds shall mature at the time or times not exceeding forty  
10          (40) years from their date or dates as may be determined by the board. The  
11          board shall determine the form and manner of execution of the bonds or notes,  
12          and shall fix the denomination or denominations and the place or places of  
13          payment of principal and interest, which may be any bank or trust company  
14          within or without the state. In case any officer of the board whose signature or  
15          facsimile of whose signature shall appear on any revenue bonds or notes shall  
16          cease to be such officer before the delivery thereof, the signature of the  
17          facsimile shall be valid and sufficient for all purposes, the same as if the  
18          officer had remained in office until the delivery. At the time of issuance of  
19          variable rate revenue bonds, the board may designate individuals or  
20          institutions which, in the sole judgment of the board, have financial market  
21          expertise to serve as agent for the board for establishing and changing from  
22          time to time, while the variable rate revenue bonds remain outstanding, the  
23          rate of interest to be borne by and the price to be paid for the revenue bonds.  
24          The rate-setting procedures and authority of each agent shall be set forth in  
25          writing, and may include a formula or an index or indices based upon market  
26          factors, and shall be established by the board at the time of issuance of the  
27          revenue bonds. At the time of the issuance of the revenue bonds, the board

1 shall establish the maximum interest rate to be borne by the revenue bonds.  
2 The board shall retain the right to remove or replace any agent at any time and  
3 for any reason. The board may provide that said bonds or notes may be  
4 executed only with the facsimile signatures of its officers, but said bonds or  
5 notes shall be executed with the manual signature of a bank or trust company  
6 designated by the board as registrar and paying agent.

7 (c) All revenue bonds or notes issued under the provisions of this chapter shall  
8 have and are hereby declared to possess all of the qualities and incidents of  
9 negotiable instruments under the laws of the state. The board may sell the  
10 revenue bonds or notes in the manner, either at public or private negotiated  
11 sale, and for the price, as it may determine will best effect the purpose of this  
12 chapter. If revenue bonds are sold at public, competitive sale, the revenue  
13 bonds shall be sold after newspaper advertising conforming to the  
14 requirements of KRS Chapter 424 and competitive bids for the sale of the  
15 revenue bonds shall be opened and read publicly by the board at a designated  
16 place, day and hour, all of which shall be announced in the advertising made  
17 relative thereto.

18 (d) In its proceedings authorizing the issuance of revenue bonds or notes, the  
19 board shall fix and determine contractual provisions with the bondholders  
20 relating to the receipt, allocation, pledging, and disbursement of revenues  
21 made available to the cabinet for bond purposes, and may enact and determine  
22 terms, conditions, and restrictions pursuant to which additional revenue bonds  
23 of the cabinet may be authorized and issued from time to time. The  
24 proceedings, determinations, and enactments of the board shall specify that  
25 the payment of principal of and interest on all cabinet revenue bonds and notes  
26 shall constitute a first charge and lien against all revenues made available to  
27 the cabinet for bond purposes before any such revenues are used, applied, and

1           disbursed for any other valid purposes of the cabinet, including the payment of  
2           operation and maintenance costs incident to the operation of the cabinet.

3           (e) The proceeds of all revenue bonds or notes shall be used solely for the  
4           purpose of enabling the cabinet to enter into agreements or interim financing  
5           agreements with governmental agencies and private companies, corporations,  
6           partnerships, and other entities, to acquire and lease projects to governmental  
7           agencies, private companies, corporations, partnerships and other entities, to  
8           purchase obligations of governmental agencies issued for economic  
9           development projects, to make loans or grants to governmental agencies,  
10          private companies, corporations, partnerships, and other such entities for  
11          economic development projects, or for any purpose authorized in this chapter.  
12          Revenue bond or note proceeds may also be used and applied for the payment  
13          of ordinary and necessary expenses in connection with issuance of the revenue  
14          bonds or notes, including, but not by way of limitation, a sum equal to any  
15          discount in the sale thereof, if discount bids are authorized and permitted by  
16          the board, administrative expenses, including the preparation of revenue  
17          bonds or notes, publication of notices, printing and other costs, attorneys' fees,  
18          and other ordinary and necessary costs of financing, including the payment of  
19          fees to fiscal agents for advice and assistance in the preparation and marketing  
20          of revenue bonds or notes.

21          (f) Prior to the preparation of definitive revenue bonds or notes, the board may,  
22          under like restrictions, issue interim receipts or temporary bonds,  
23          exchangeable for definitive revenue bonds or notes when the revenue bonds or  
24          notes shall have been executed, and are available for delivery. The board shall  
25          also provide for the replacement of any revenue bonds or notes that shall have  
26          become mutilated or shall have been destroyed or lost. Revenue bonds or  
27          notes may be issued under the provisions of this chapter directly by the board

1 without obtaining the consent or acquiescence of any cabinet, division,  
2 commission, board, department, or agency of the state other than the Finance  
3 and Administration Cabinet, and as provided in Section 4 of this Act~~[KRS~~  
4 ~~42.420]~~, and without any other proceedings or the happening of any other  
5 conditions or things except as specifically required by this chapter and the  
6 provisions of the resolution or resolutions of the board authorizing the  
7 issuance of the revenue bonds or notes.

8 (2) The board shall assume all bond issuance and refunding authority, power, duties,  
9 and obligations as existed on July 14, 1992, for the Kentucky Development Finance  
10 Authority, and the Kentucky Rural Economic Development Authority; the ability of  
11 any of the foregoing organizations to issue industrial revenue bonds under KRS  
12 Chapter 103; and the ability of any of the foregoing authorities to issue economic  
13 development revenue bonds as provided in this chapter. The board shall also have  
14 the authority and power to issue revenue bonds for any other economic development  
15 activity as set forth in this chapter.

16 (3) The board shall for purposes of the Kentucky Revised Statutes be deemed to be the  
17 successor issuer for all of the currently issued and outstanding bond issues by the  
18 organizations set forth in subsection (2) of this section. The board shall have the  
19 authority and the power to reaffirm all existing bond obligations of the  
20 organizations in subsection (2) of this section and shall perform all duties,  
21 obligations, and requirements as may be necessary and required under the bond  
22 documents relating to each and every such issue. The board shall also, in regard to  
23 each and every such issue, exercise its authority and power as set forth in this  
24 chapter.

25 (4) In the discretion of the board, any revenue bonds or notes issued under the  
26 provisions of this chapter may be secured by a trust indenture by and between the  
27 cabinet and corporate trustee which may be any trust company or bank having the

1 powers of a trust company within or without the Commonwealth. A trust indenture,  
2 or the resolution of the board providing for the issuance of revenue bonds or notes,  
3 may pledge or assign for the security of the revenue bonds or notes, all or any part  
4 of the totality of revenues made available to the cabinet for bond purposes received  
5 and to be received. The trust indenture or resolution of the board may contain  
6 provisions for protecting and enforcing the rights and remedies of the bondholders  
7 which may be reasonable and proper, and not in violation of law, including, but not  
8 limited to, covenants and provisions setting forth the duties of the cabinet in relation  
9 to the purposes to which revenue bonds and note proceeds may be applied; the  
10 disposition or pledging of assets and revenues made available to the cabinet for  
11 bond purposes; and the custody, safeguarding, and application of all such revenues.  
12 It shall be lawful for any bank or trust company incorporated under the laws of the  
13 Commonwealth which may act as depository of the proceeds of revenue bonds,  
14 notes, or revenues made available to the cabinet for bond purposes, to furnish such  
15 indemnifying bonds, or to pledge such securities as may be required by a trust  
16 indenture or resolution of the board. Any trust indenture or board resolution may set  
17 forth the rights and remedies of the bondholders and of the trustee, and may restrict  
18 the individual right of action by bondholders, where a trust indenture has been  
19 entered into. In addition to the foregoing, any trust indenture or board resolution  
20 may contain other provisions which the board determines to be reasonable and  
21 proper for the further security of the holders of any revenue bonds or notes. All  
22 expenses incurred in carrying out the provisions of a trust indenture or bond  
23 proceedings may be treated as a part of the cost of operating the cabinet, and may be  
24 paid from revenues pledged or assigned to the payment of the principal of and the  
25 interest on revenue bonds or notes, or from any other funds properly available to the  
26 cabinet for bond purposes. However, the payment of operational costs from  
27 revenues made available to the cabinet for bond purposes shall, as provided in

1 subsection (1) of this section, be subordinate to the payment of principal of and  
2 interest on cabinet revenue bonds or notes from revenues made available to the  
3 cabinet for bond purposes, it being intended that these principal and interest  
4 requirements shall be secured by a prior and paramount lien on gross revenues made  
5 available to the cabinet for bond purposes.

6 (5) Notwithstanding any other provision to the contrary, any trust indenture or board  
7 resolution shall provide that, except to the extent the rights afforded to bondholders  
8 by this section shall be enforceable and enforced by a trustee under a trust indenture  
9 rather than by the bondholders, any holder of revenue bonds or notes issued by the  
10 cabinet or any of the coupons appurtenant thereto, may, either at law or in equity, by  
11 suit, action, mandamus, or other proceedings, protect and enforce any and all rights  
12 generally arising under the laws of the Commonwealth, or granted under this  
13 chapter, or under a trust indenture, or by the resolution of the board authorizing the  
14 issuance of revenue bonds or notes, and may specifically enforce and compel by  
15 mandamus the performance of all duties required by this chapter, or by trust  
16 indenture, or board resolution, to be performed by the cabinet or by any officer or  
17 employee thereof, including, but not limited to, the prompt and full enforcement of  
18 the terms and conditions of all assistance agreements to which the cabinet is a party.

19 (6) The cabinet is hereby authorized to provide for the issuance of refunding revenue  
20 bonds or notes for the purpose of refunding any revenue bonds or notes then  
21 outstanding, whether issued by the cabinet under the provisions of this chapter or  
22 one (1) of the agencies, authorities or organizations referenced in subsections (2)  
23 and (3) of this section, including the payment of any redemption premium thereon  
24 and any interest accrued or to accrue to the date of redemption of these revenue  
25 bonds or notes, and, if determined advisable by the board, for the additional purpose  
26 of providing further funds for the carrying out of the proper public and  
27 governmental purposes of the cabinet. The issuance and sale of the refunding



1 revenue bonds or notes, the maturities and other details thereof, the rights of the  
2 holders thereof, and the rights, duties, and obligations of the cabinet in respect of  
3 the same, shall be governed by the provisions of this chapter which relate to the  
4 issuance of revenue bonds or notes, insofar as these provisions may be applicable.

5 (7) Refunding revenue bonds or notes may be sold or exchanged directly for  
6 outstanding revenue bonds or notes of the cabinet, and if sold, the proceeds thereof  
7 shall be applied, in addition to any other authorized purposes, to the purchase,  
8 redemption, or payment of these outstanding revenue bonds or notes. Pending the  
9 application of the proceeds of any refunding revenue bonds, with any other  
10 available funds, to the payment of the principal, accrued interest, and any  
11 redemption premium on the revenue bonds or notes being refunded (and if so  
12 provided or permitted in the board resolution authorizing the issuance of the  
13 refunding revenue bonds or notes, or in the trust indenture securing the same, to the  
14 payment of any interest on the refunding revenue bonds or notes and any expenses  
15 in connection with the refunding), the proceeds may be invested in direct  
16 obligations of, or obligations the principal of and interest on which are  
17 unconditionally guaranteed by the United States of America which shall mature or  
18 which shall be subject to redemption by the holders thereof at the option of such  
19 holders not later than the respective dates when the proceeds, together with the  
20 interest accruing thereon, will be required for the purposes intended.

21 (8) Revenue bonds and notes issued by the cabinet under the provisions of this chapter  
22 are hereby declared and deemed to be securities in which all public officers and  
23 public bodies of the Commonwealth and its political subdivisions, all insurance  
24 companies, trust companies, banking associations, investment companies,  
25 executors, administrators, trustees, and other fiduciaries may properly and legally  
26 invest funds, including capital in their control or belonging to them. These  
27 obligations of the cabinet are hereby declared and determined to be securities which

1           may properly and legally be deposited with and received by any state or municipal  
2           officer or any agency or political subdivision of the Commonwealth, for the purpose  
3           for which the deposit of bonds, notes, or obligations of the Commonwealth is now,  
4           or may hereafter be, authorized by law.

5       (9) Revenue bonds or notes issued by the cabinet under the provisions of this chapter  
6           shall not be deemed to constitute a debt of the Commonwealth or of any political  
7           subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of  
8           any political subdivision thereof; but the bonds shall be payable as to principal and  
9           interest solely from revenues made available to the cabinet for bond purposes  
10          provided therefor under the provisions of this chapter. All such revenue bonds or  
11          notes shall contain on the face thereof a statement to the effect that neither the  
12          Commonwealth nor the cabinet shall be obligated to pay the same, or the interest  
13          thereon, except from revenues made available to the cabinet for bond purposes, as  
14          defined in this chapter; and that neither the faith and credit, nor the taxing power of  
15          the Commonwealth or any political subdivision thereof is pledged to the payment of  
16          the principal of and interest on such revenue bonds or notes.

17       (10) The Commonwealth, for the specific use and benefit of the cabinet, may cause to be  
18           submitted to the voters of the state in a manner provided by Sections 49 and 50 of  
19           the Constitution of Kentucky, from time to time, propositions for the incurring of  
20           state indebtedness represented by general obligation bonds of the Commonwealth,  
21           the proceeds of which are to be made available to the cabinet and used and  
22           employed by the cabinet for all proper purposes.

23       (11) Subject to the provisions of KRS 56.870 to 56.873, the State Property and Buildings  
24           Commission or the Kentucky Turnpike Authority may issue bonds for which debt  
25           service originates with an appropriation of the General Assembly, and may make  
26           the proceeds available to the cabinet for all proper purposes.

27       (12) Funds appropriated to the cabinet by the General Assembly, including but not

1 limited to repayments of revolving funds established with appropriations of the  
2 General Assembly or established with bond issues for which the debt service,  
3 issuance costs, reserve fund requirements, insurance premiums or any other  
4 expenditures associated with bond issuance are appropriated by the General  
5 Assembly, shall not be commingled with other funds made available to the cabinet  
6 and shall only be expended for the purposes specified by the General Assembly  
7 when the appropriation is made or as approved in subsequent actions of the General  
8 Assembly.

9 ➔Section 22. KRS 175B.030 is amended to read as follows:

- 10 (1) (a) 1. This section shall apply to any project that connects Kentucky with any  
11 state that adjoins the Commonwealth. A proposal to construct a project  
12 that connects Kentucky with an adjoining state shall be contained in a  
13 financing plan prepared pursuant to subsection (6) of this section. If  
14 approved, the project shall be constructed under the supervision of the  
15 state authority, a bi-state authority, or both, and may be financed by the  
16 state authority, a bi-state authority, a public-private partnership, or any  
17 combination of these.
- 18 2. If the state authority, operating pursuant to KRS 175B.020, participates  
19 in any capacity in the construction or financing of a project that connects  
20 Kentucky with an adjoining state, the state authority may assume all or  
21 part of the role of the bi-state authority relative to that project.
- 22 (b) Subsections (2) to (4) of this section shall only apply to a bi-state authority.
- 23 (c) Subsections (1) and (5) to (8) of this section shall apply to both a bi-state  
24 authority and a public-private partnership.
- 25 (2) (a) A local government that contains a portion of a proposed project may, by  
26 resolution of its governing body, request that its chief executive officer and  
27 the Governor appoint a group of Kentucky members to negotiate with a

1 similar group from an adjoining state for the purpose of proposing the creation  
2 of a bi-state authority composed of members from both states, recognized  
3 under the laws of both states, and existing for the purpose of financing,  
4 constructing, and operating a project or projects mutually beneficial to both  
5 states.

6 (b) If established, the Kentucky membership of the bi-state authority shall consist  
7 of seven (7) members, three (3) of whom shall be appointed by the Governor,  
8 and four (4) of whom shall be appointed by the chief executive of the local  
9 government in which the project is located. The four (4) local government  
10 appointees shall be residents of the county in which the project is located. If a  
11 project is located in a consolidated local government, no more than two (2)  
12 appointees shall reside in the same Kentucky senatorial district. If portions of  
13 the project are located in more than one (1) local government, the chief  
14 executive of the county or consolidated local government having the largest  
15 population shall make the appointments authorized in this paragraph.

16 (c) Any proposed agreement to establish a bi-state authority shall be presented to  
17 the state authority for approval. If the state authority approves the agreement,  
18 it shall be submitted to the General Assembly for ratification. If the agreement  
19 is ratified by the General Assembly, the state authority shall authorize the  
20 establishment of a bi-state authority and shall enter into an agreement with the  
21 adjoining state for the creation of a bi-state authority.

22 (3) (a) Kentucky members of a proposed bi-state authority who are appointed by the  
23 Governor shall be confirmed by the Senate in accordance with KRS 11.160.  
24 Members appointed by the chief executive of the local government shall be  
25 confirmed by the governing body of the local government.

26 (b) At least two (2) of the Governor's appointees and two (2) of the chief  
27 executive's appointees shall be familiar with road and bridge design or

1 financing and administration of transportation infrastructure projects.

2 (c) Members of a bi-state authority appointed by the Governor shall serve for four  
3 (4) years, except that initial appointments shall be as follows:

- 4 1. One (1) appointee shall serve a term of two (2) years;
- 5 2. One (1) appointee shall serve a term of three (3) years; and
- 6 3. One (1) appointee shall serve a term of four (4) years.

7 (d) The governing body of the local government requesting formation of the bi-  
8 state authority shall, by resolution, establish term lengths for the initial and  
9 succeeding members who are locally appointed, with each term not to exceed  
10 four (4) years.

11 (e) Members of a bi-state authority representing the Commonwealth may be  
12 reappointed upon the expiration of their terms. Members reappointed shall be  
13 reconfirmed in the same manner as newly appointed members.

14 (4) (a) An agreement establishing a bi-state authority shall at a minimum:

- 15 1. Establish the total number of members of the bi-state authority;
- 16 2. Establish staffing and funding to support the work of the bi-state  
17 authority;
- 18 3. Designate the process for selecting a presiding officer of the bi-state  
19 authority, which shall include a requirement that a member from each  
20 state share the duties of presiding; and
- 21 4. Require the approval of a majority of the members from each state  
22 before any action may be taken or any change may be made by the bi-  
23 state authority.

24 (b) A bi-state authority created pursuant to this section shall take the legal form  
25 necessary to conform to the laws of both states. The Commonwealth shall  
26 consider the bi-state authority to be an independent de jure municipal  
27 corporation, constituting a governmental agency and instrumentality of the

1 appropriate jurisdictions. The bi-state authority shall adopt a name indicative  
2 of its location and purpose.

3 (c) Any bi-state agreement approved pursuant to this section may be presented to  
4 the United States Congress for consent thereof by joint resolution as provided  
5 in Article 1, Section 10, Clause 3 of the United States Constitution.

6 (5) (a) Members of a bi-state authority appointed from the Commonwealth shall be  
7 considered public servants subject to KRS Chapter 11A.

8 (b) Members of a bi-state authority appointed from the Commonwealth shall  
9 receive no compensation for their services, but shall be entitled to  
10 reimbursement for all reasonable expenses necessary and incidental to the  
11 performance of their duties and functions as members of the bi-state authority.

12 (c) The following individuals or entities shall be prohibited from entering into  
13 any contract or agreement with a bi-state authority or a public-private  
14 partnership:

15 1. Any member of the bi-state authority appointed to represent the  
16 Commonwealth or any member of the state authority, a project authority,  
17 or a public-private partnership;

18 2. Any spouse, child, stepchild, parent, stepparent, or sibling of a member  
19 of the bi-state authority appointed to represent the Commonwealth or  
20 any spouse, child, stepchild, parent, stepparent, or sibling of a member  
21 of the state authority, a project authority, or a public-private partnership;  
22 and

23 3. Any corporation, limited liability entity, or other business entity of  
24 which a person identified in subparagraph 1. or 2. of this paragraph is an  
25 owner, member, or partner or has any other ownership interest.

26 (d) A bi-state authority or public-private partnership shall comply with the  
27 procurement laws of both states that are a party to the agreement creating the

1 bi-state authority or public-private partnership, including the provisions of  
2 KRS Chapter 45A, in the development of a project and the procurement of  
3 goods and services.

4 (e) A bi-state authority or public-private partnership shall comply with the laws of  
5 both states concerning the inspection and disclosure of public records,  
6 including KRS 61.870 to 61.884.

7 (f) A bi-state authority or public-private partnership shall comply with the laws of  
8 both states concerning the conduct of open meetings, including KRS 61.805 to  
9 61.850.

10 (6) (a) Prior to the execution of any agreements for the construction of the project,  
11 the state authority, the bi-state authority, a public-private partnership, or any  
12 combination of these, if appropriate, shall prepare a financial plan specifying  
13 the construction and financing parameters of the project, including:

14 1. A timeline for construction of the project, including financing  
15 requirements throughout the construction of the project;

16 2. The amount and duration of per-vehicle tolls;

17 3. Expected appropriations from the General Assembly to be used for  
18 project costs; however, no financial plan shall be submitted or approved  
19 which seeks or purports to bind any future General Assembly to  
20 appropriate any moneys beyond those appropriated in the most recently  
21 enacted biennial highway construction plan;

22 4. Other sources of funds and expected amounts; and

23 5. Other provisions relating to the construction and financing of the  
24 project.

25 (b) 1. If the financial plan is prepared by a bi-state authority, the Kentucky  
26 members of the bi-state authority shall consult with the involved local  
27 governments in Kentucky, the department, and the ~~Finance and~~

- 1                   ~~Administration Cabinet,~~ Office of Financial Management **within the**  
2                   **Office of the State Treasurer,** during the development of the financial  
3                   plan. Upon completion and approval of the financial plan by the bi-state  
4                   authority, the plan shall be submitted to the state authority for approval.
- 5                   2. If the financial plan is prepared by the state authority, the state authority  
6                   shall consult with the involved local governments in Kentucky, the  
7                   department, and the ~~Finance and Administration Cabinet,~~ Office of  
8                   Financial Management **within the Office of the State Treasurer,** during  
9                   the development of the financial plan. If the financial plan is viable  
10                  based on all information available to the state authority, the state  
11                  authority shall recommend the plan.
- 12                 3. If the financial plan is prepared by a public-private partnership, the  
13                 public-private partnership shall consult with the involved local  
14                 governments in Kentucky, the department, and the ~~Finance and~~  
15                 ~~Administration Cabinet,~~ Office of Financial Management **within the**  
16                 **Office of the State Treasurer,** during the development of the financial  
17                 plan. Upon completion and approval of the financial plan by the public-  
18                 private partnership, the plan shall be submitted to the state authority for  
19                 approval.
- 20                 (c) The state authority shall not approve or recommend a financial plan which  
21                 seeks or purports to bind any future General Assembly to appropriate any  
22                 moneys beyond those appropriated in the most recently enacted biennial  
23                 highway construction plan. If the financial plan is approved or recommended  
24                 by the state authority, the cabinet and, as necessary, other state agencies or  
25                 local governments may enter into a development agreement as provided in  
26                 subsection (7) of this section with all necessary parties for the development of  
27                 a project.



1 (d) Every financial plan prepared pursuant to this section shall include an  
2 evaluation of the ability of a potential contractor or service provider to quickly  
3 respond to the needs presented in a major transportation project, and the  
4 importance of economic development opportunities represented by the  
5 construction of any project under this chapter. In evaluating proposals,  
6 preference shall be given to a plan that includes the involvement of small  
7 businesses as subcontractors, to the extent that small businesses can provide  
8 services in a competitive manner, unless any preference interferes with the  
9 qualification for federal funds.

10 (7) (a) Upon approval or recommendation of the financial plan as provided in  
11 subsection (6) of this section, a development agreement may be entered into  
12 establishing the terms and conditions under which a project will be undertaken  
13 and the duties, responsibilities, powers, and authorities of the parties to the  
14 agreement. The development agreement shall, at a minimum:

- 15 1. Require the bi-state authority or public-private partnership to submit an  
16 annual report to the cabinet and the Legislative Research Commission;
- 17 2. Require that an annual audit of the bi-state authority or public-private  
18 partnership be performed by a certified public accountant;
- 19 3. Include the relevant provisions from the financial plan required by  
20 subsection (6) of this section;
- 21 4. Include provisions detailing the duties, responsibilities, and obligations  
22 of each party in relation to the financing, development, operation, and  
23 maintenance of the project, and the servicing and retirement of all  
24 bonds;
- 25 5. Establish limits on any reserve funds created for operation, maintenance,  
26 or bond servicing, which shall be at a level to adequately operate and  
27 maintain the project and ensure proper bond servicing;

- 1           6. Prohibit the amendment of the project or the financial plan without the  
2           prior evaluation and approval by the state authority. No amendment shall  
3           be approved that seeks or purports to bind any future General Assembly  
4           to appropriate any moneys beyond those appropriated in the most  
5           recently enacted biennial highway construction plan;
- 6           7. If applicable, establish a process for the transfer of ownership of the  
7           portion of the project that is within the Commonwealth to the  
8           Commonwealth upon retirement of all bonds associated with the project  
9           or, if the project utilizes a public-private partnership, upon termination  
10          of that partnership; and
- 11          8. a. For a bi-state authority, require the approval of a majority of the  
12             members from each state before any action may be taken or any  
13             changes may be made by the bi-state authority; or
- 14             b. For a public-private partnership, require approval of the cabinet  
15             before any action may be taken or any changes may be made by the  
16             public-private partnership.
- 17          (b) The parties to the agreement from the Commonwealth shall consult with the  
18             department and the ~~Finance and Administration Cabinet,~~ Office of Financial  
19             Management *within the Office of the State Treasurer,* in the development of  
20             the agreement.
- 21          (c) Additional agreements may be executed, as necessary to complete the project.
- 22          (d) The development agreement may take the form of a public-private partnership  
23             agreement.
- 24          (8) The General Assembly hereby finds and declares that in carrying out the functions,  
25             powers, and duties as prescribed in this chapter, a bi-state authority or public-  
26             private partnership authorized under this section will be performing essential public  
27             and government functions that improve the public welfare and prosperity of the

1 people of the Commonwealth by promoting the availability of and enhancing  
2 accessibility to improved transportation services within the Commonwealth.

3 (9) The state authority shall not enter into a public-private partnership related to a  
4 project connecting the Commonwealth with the State of Ohio unless the General  
5 Assembly expressly authorizes it by passing a joint resolution.

6 ➔Section 23. KRS 175B.060 is amended to read as follows:

- 7 (1) (a) 1. An issuing authority may, by resolution, authorize the issuance of  
8 project revenue bonds for the purpose of paying the cost of a project.
- 9 2. The principal of and the interest on the project revenue bonds shall be  
10 payable solely from the funds provided for the payment.
- 11 3. The bonds of each issue:
- 12 a. Shall be dated;
- 13 b. Shall bear interest at a rate or method of determining rates;
- 14 c. Shall mature at a time not exceeding forty (40) years from their  
15 issuance date, as determined by the issuing authority; and
- 16 d. May be redeemable before maturity, at the option of the issuing  
17 authority, at a price and under terms and conditions as may be  
18 fixed by the issuing authority prior to the issuance of the project  
19 revenue bonds.
- 20 4. The issuing authority shall:
- 21 a. Determine the form of the bonds;
- 22 b. Fix the denomination of the bonds; and
- 23 c. Fix the place of payment of principal and interest, which may be at  
24 any bank or trust company within or without the Commonwealth.
- 25 (b) 1. The project revenue bonds shall be signed by the chairman or other  
26 presiding officer of the issuing authority or shall bear that officer's  
27 facsimile signature, and the seal of the issuing authority or a facsimile

- 1 shall be affixed to the project revenue bonds and attested by the  
2 secretary of the issuing authority.
- 3 2. If any officer whose signature or a facsimile of whose signature appears  
4 on any project revenue bonds ceases to be an officer before the delivery  
5 of the project revenue bonds, the signature or facsimile shall be valid  
6 and sufficient for all purposes as if the officer had remained in office  
7 until the delivery.
- 8 3. All project revenue bonds issued under this chapter shall have all the  
9 qualities and incidents of negotiable instruments under the negotiable  
10 instruments law of the Commonwealth.
- 11 4. The project revenue bonds shall be issued in registered form.
- 12 5. The issuing authority may sell the project revenue bonds in a manner,  
13 either at public or private sale, and for a price as it determines will best  
14 carry out the purposes of this chapter.
- 15 (2) (a) The proceeds of the project revenue bonds of each issue shall be used solely  
16 for the payment of the cost of the project or projects for which the bonds were  
17 issued, and shall be disbursed in a manner and under the restrictions the  
18 issuing authority provides in the resolution authorizing the issuance of the  
19 project revenue bonds or in the trust agreement securing the project revenue  
20 bonds.
- 21 (b) If the proceeds of the project revenue bonds of any issue, by error of estimates  
22 or otherwise, are less than the cost of the project or projects, additional project  
23 revenue bonds may be issued to provide the amount of the deficit, and, unless  
24 otherwise provided in the resolution authorizing the issuance of the project  
25 revenue bonds or in the trust agreement securing the project revenue bonds,  
26 shall be deemed to be of the same issue and shall be entitled to payment from  
27 the same fund without preference or priority of the project revenue bonds first

1 issued.

2 (c) If the proceeds of the project revenue bonds of any issue exceed the cost, the  
3 surplus shall be deposited to the credit of the sinking fund required by KRS  
4 175B.040(3)(a) for the project revenue bonds or any account or accounts the  
5 issuing authority shall have provided for in the proceedings or trust indenture  
6 authorizing and securing the project revenue bonds.

7 (3) Project revenue bonds shall be issued in compliance with Section 4 of this Act~~[KRS~~  
8 ~~42.420]~~ and KRS 45A.840 to 45A.879. Except as provided in Section 4 of this  
9 Act~~[KRS 42.420]~~ and KRS 45A.840 to 45A.879, project revenue bonds may be  
10 issued under this chapter without obtaining the consent of any local government,  
11 department, division, authority, board, bureau, or agency of the Commonwealth, or  
12 of the Commonwealth, and without any other proceedings or conditions other than  
13 those proceedings or conditions which are specifically required by this chapter.

14 ➔Section 24. KRS 247.946 is amended to read as follows:

15 The corporation shall have all of the powers necessary or convenient to carry out and  
16 effectuate the purposes and provisions of KRS 247.940 to 247.978 including, but without  
17 limiting the generality of the foregoing, the power:

18 (1) To adopt bylaws for the regulation of its affairs and the conduct of its business and  
19 to prescribe rules, administrative regulations, and policies in connection with the  
20 performance of its functions and duties;

21 (2) To review the projects authorized to be financed by KRS 247.940 to 247.978 in  
22 order to determine the following:

23 (a) The qualifications of the applicant as a party entitled to financing assistance  
24 under the provisions of KRS 247.940 to 247.978 and the rules and  
25 administrative regulations of the corporation;

26 (b) The qualifications of the applicant in the areas of experience, training, and  
27 financial ability in relation to the project for which assistance is sought and

- 1           any other areas as the corporation shall determine necessary and desirable in  
2           implementing the intent of KRS 247.940 to 247.978 in the promotion of  
3           agriculture throughout the Commonwealth. Analysis shall include a careful  
4           evaluation of character, experience, record, and prospects for sound financial  
5           management and sound operation of the project. Financial ability factors to be  
6           considered shall include the applicant's total assets controlled, equity owned,  
7           contingent liabilities, history of earnings to date, and repayment capacity, as  
8           well as other factors set by the corporation. Consideration may be given to the  
9           special needs of beginning farmers;
- 10       (c) The economic need for the project in the area based upon general economic  
11       conditions and unemployment in the region;
- 12       (d) The economic soundness of the project based upon generally accepted cost-  
13       benefit methodology; and
- 14       (e) Consistency of the project with other policies of the Commonwealth designed  
15       to ensure a sustained land base for agriculture including preservation of prime  
16       farmland and promotion of soil conservation techniques for protection of  
17       farmland;
- 18   (3) To issue from time to time bonds, notes, bond anticipation notes, renewal notes,  
19       refunding bonds, interim certificates, certificates of indebtedness, debentures,  
20       warrants, commercial paper, or other obligations or evidence of indebtedness,  
21       hereinafter collectively referred to as "bonds" or "notes," to provide funds for and to  
22       fulfill and achieve its authorized public functions or corporate purposes, as set forth  
23       in the provisions of KRS 247.940 to 247.978; and in addition to the powers  
24       conferred hereunder, to have all the authority delegated to cities and counties  
25       pursuant to the provisions of KRS 103.200 to 103.285; provided, however, that  
26       bonds or notes issued by the corporation shall not be subject to the jurisdiction or  
27       approval of the Industrial Revenue Bond Oversight Committee or the State Property

- 1 and Buildings Commission but shall be subject to the review of the Office of  
2 Financial Management in the Office of the State Treasurer~~[Controller within the~~  
3 ~~Finance and Administration Cabinet]~~;
- 4 (4) To make or participate in the making of insured mortgage loans to qualified  
5 applicants for the purpose of purchasing agricultural real estate and improvements;
- 6 (5) To purchase or participate in the purchase of mortgage loans made to qualified  
7 applicants for the purpose of purchasing agricultural real estate and improvements;
- 8 (6) To make or participate in the making of loans to qualified applicants for the purpose  
9 of purchasing machinery, equipment, and livestock;
- 10 (7) To purchase or participate in the purchase of loans to qualified applicants for the  
11 purpose of purchasing machinery, equipment, and livestock;
- 12 (8) To make or participate in the making or to purchase or participate in the purchase of  
13 loans to qualified applicants for the purpose of leasing equipment, introducing new  
14 agricultural commodities or enhancing agricultural markets;
- 15 (9) To collect and pay reasonable fees and charges in connection with making,  
16 purchasing, and servicing its loans, notes, bonds, commitments, and other evidences  
17 of indebtedness;
- 18 (10) To acquire real and personal property, or any interest therein, by purchase,  
19 foreclosure, lease, sublease, or otherwise; to own, manage, and operate real and  
20 personal property; to sell, assign, exchange, transfer, convey, lease, mortgage, or  
21 otherwise dispose of or encumber real and personal property where necessary or  
22 appropriate to the purposes of the corporation subject to the rights of holders of the  
23 bonds of the corporation, at public or private sale, with or without public bidding;
- 24 (11) To sell, at public or private sale, all or any part of any real estate mortgage or chattel  
25 mortgage or other instrument or document securing any loan permitted by KRS  
26 247.940 to 247.978;
- 27 (12) To procure insurance against any loss in connection with its operations in the

- 1 amounts and from any insurers, as it may deem necessary or desirable;
- 2 (13) To consent, whenever the corporation deems necessary or desirable in the  
3 fulfillment of its corporate purposes, to the modification of interest rates, time of  
4 payment of principal or interest, or any other terms of any loan, contract, or  
5 agreement of any kind to which the corporation is a party;
- 6 (14) To include in any borrowing those amounts deemed necessary by the corporation to  
7 pay financing charges, capitalized interest, consultant, advisory, and legal fees and  
8 any other expenses necessary or incident to any borrowing;
- 9 (15) To make and publish administrative regulations respecting its lending programs and  
10 any other rules and regulations as are necessary to effectuate its corporate purposes;
- 11 (16) To make, execute, and effectuate any and all agreements or other documents with  
12 any governmental agency or any person, corporation, association, partnership, or  
13 other organization or entity, necessary to accomplish the purposes of KRS 247.940  
14 to 247.978;
- 15 (17) To accept gifts, devises, bequests, grants, loans, appropriations, and other assistance  
16 and any other aid from any source whatsoever and to agree to and to comply with  
17 conditions attached thereto;
- 18 (18) To sue and be sued in its own name and in the name of any subsidiary corporation  
19 or entity which may be created pursuant to subsection (28) of this section;
- 20 (19) To maintain an office in the city of Frankfort and at any other place or places as it  
21 may determine;
- 22 (20) To employ fiscal consultants, engineers, attorneys, appraisers, and such other agents  
23 and employees as may be required in the judgment of the corporation and to fix and  
24 pay their compensation from funds available to the corporation therefor;
- 25 (21) To invest any funds held in sinking funds, reserve funds, or trust fund accounts or  
26 any moneys not required for immediate disbursement by the corporation in:
- 27 (a) Obligations of or guaranteed by the Commonwealth, United States of America



- 1           or their respective agencies and instrumentalities;
- 2           (b) Certificates of deposit and other evidences of deposit at state and federal  
3           chartered banks and savings and loan associations, fully collateralized as to  
4           any principal amount in excess of the amount insured by the United States  
5           government or any agency thereof;
- 6           (c) A guaranteed investment or similar contract, which provides for the  
7           investment of funds at a guaranteed rate of return, with an insurance company  
8           or depository financial institution with a claim paying rating of no less than  
9           either of the two (2) highest grades given by a nationally recognized rating  
10          agency; and
- 11          (d) Any other investment authorized by law for the investment of funds of the  
12          Commonwealth;
- 13 (22) Subject to the rights of holders of bonds of the corporation, to renegotiate,  
14          refinance, or foreclose on any mortgage, security interest, or lien; or commence any  
15          action to protect or enforce any right or benefit conferred upon the corporation by  
16          any law, mortgage, security interest, lien, contract, or other agreement; and bid for  
17          and purchase property at any foreclosure or at any other sale or otherwise acquire or  
18          take possession of any property; and in any such event, the corporation may  
19          complete, administer, pay the principal of and interest on any obligation incurred in  
20          connection with the property, dispose of and otherwise deal with the property in any  
21          manner as may be necessary or desirable to protect the interest of the corporation or  
22          of holders of its bonds therein;
- 23 (23) To insure, coinsure, reinsure, or cause to be insured, coinsured or reinsured,  
24          agricultural loans, mortgage loans, or mortgages, or any other type of loans, and pay  
25          or receive premiums on insurance, coinsurance, or reinsurance, and establish  
26          reserves for losses, and participate in the insurance, coinsurance, or reinsurance of  
27          agricultural loans, mortgage loans or mortgages, or any other type of loans with the

- 1 federal or state government or any private insurance company;
- 2 (24) To undertake and carry out or authorize the completion of studies and analyses of  
3 agricultural conditions and needs within the Commonwealth and needs relating to  
4 the promotion of agricultural exports and ways of meeting the needs, and make the  
5 studies and analyses available to the public and to the agricultural industry, and to  
6 engage in research or disseminate information on agriculture and agricultural  
7 exports;
- 8 (25) To accept federal, state, or private financial or technical assistance and comply with  
9 any conditions for assistance, provided that those conditions are not in conflict with  
10 the intent of the provisions of KRS 247.940 to 247.978;
- 11 (26) To purchase, discount, sell, negotiate and guarantee, insure, co-insure and reinsure  
12 notes, drafts, checks, bills of exchange, acceptances, bankers' acceptances, cable  
13 transfers, letters of credit, and other evidence of indebtedness;
- 14 (27) To serve as the beneficiary of any public trust; and
- 15 (28) To create such subsidiary corporations or entities as may be necessary to borrow  
16 money, insure or reinsure agricultural loans, or issue bonds.
- 17 ➔Section 25. KRS 251.650 is amended to read as follows:
- 18 (1) The total value of assessments shall be deposited and held by the board in trust in  
19 the Kentucky grain insurance fund to pay valid claims under the provisions of this  
20 section and KRS 251.400. These funds shall be invested and reinvested in United  
21 States Treasury obligations at the direction of the board, and the interest from these  
22 investments shall be deposited to the credit of the fund and shall be available for the  
23 same purposes as all other money deposited in the fund. The money in the fund  
24 shall not be available for any purpose other than the payment of claims in  
25 accordance with KRS 251.400, refunds, legal fees, management fees, investment  
26 fees, and administration fees that are approved by the board. No money in this fund  
27 shall be used for any regulatory or licensing provision in this chapter.

1 (2) Notwithstanding the provisions of subsection (1) of this section, the board may  
 2 authorize the investment of funds for the Kentucky grain insurance fund through the  
 3 Office of the State Treasurer's~~[Finance and Administration Cabinet's]~~ Office of  
 4 Financial Management in any guaranteed security or other guaranteed investment  
 5 recommended by the office if the board determines the recommendation would  
 6 maximize the interest or income to the fund.

7 (3) By October 1 of each odd-numbered year, the board shall report to the Interim Joint  
 8 Committee on Appropriations and Revenue and the Interim Joint Committee on  
 9 Agriculture:

10 (a) The current balance of the fund;

11 (b) The amount of assessments, interest earned, and any other money deposited  
 12 into the fund; and

13 (c) The expenditures incurred due to claims, refunds, management fees,  
 14 investment fees, legal fees, and administrative fees.

15 (4) Each report shall reflect the deposits into and the expenditures incurred for the most  
 16 recent biennium.

17 ➔Section 26. KRS 342.1223 is amended to read as follows:

18 (1) The Kentucky Workers' Compensation Funding Commission is created as an  
 19 agency of the Commonwealth for the public purpose of controlling, investing, and  
 20 managing the funds collected pursuant to KRS 342.122.

21 (2) The commission shall:

22 (a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS  
 23 342.122 and its other funds separate and apart from all "state funds" or "public  
 24 funds," as defined in KRS Chapter 446;

25 (b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power  
 26 over the funds collected pursuant to KRS 342.122, and may invest association  
 27 funds through one (1) or more banks, trust companies, or other financial

- 1 institutions with offices in Kentucky in good standing with the Department of  
2 Financial Institutions, in investments described in KRS Chapter 386, except  
3 that the funding commission may, at its discretion, invest in equity securities;
- 4 (c) Report to the General Assembly at each even-numbered-year regular session  
5 the actuarial soundness and adequacy of the funding mechanism for the  
6 special fund and other programs supported by the mechanism, including  
7 detailed information on the investment of funds and yields thereon;
- 8 (d) Recommend to the General Assembly, not later than October 31 of the year  
9 prior to each even-numbered-year regular legislative session, changes deemed  
10 necessary in the level of the assessments imposed in this chapter;
- 11 (e) In conjunction with the Labor Cabinet, submit to the General Assembly, not  
12 later than October 31 of the year prior to each even-numbered-year regular  
13 legislative session, a proposed budget for the biennium beginning July 1  
14 following the even-numbered-year regular session of the General Assembly;
- 15 (f) In conjunction with the Labor Cabinet, provide to the Interim Joint Committee  
16 on Appropriations and Revenue an annual budget and detailed quarterly  
17 financial reports;
- 18 (g) Conduct periodic audits, independently or in cooperation with the Labor  
19 Cabinet or the Department of Revenue, of all entities subject to the  
20 assessments imposed in this chapter; and
- 21 (h) Report monthly to the Committees on Appropriations and Revenue and on  
22 Labor and Industry its monthly expenditures of restricted agency funds and the  
23 nature of the expenditures.
- 24 (3) The commission shall have all of the powers necessary or convenient to carry out  
25 and effectuate the purposes for which it was established, including, but not limited  
26 to, the power:
- 27 (a) To sue and be sued, complain, or defend, in its name;

- 1 (b) To elect, appoint, or hire officers, agents, and employees, and define their  
2 duties and fix their compensation within the limits of its budget approved by  
3 the General Assembly. Notwithstanding any provision of KRS Chapter 18A to  
4 the contrary, officers and employees of the funding commission may be  
5 exempted from the classified service;
- 6 (c) To contract for investment counseling, legal, actuarial, auditing, and other  
7 professional services in accordance with the provisions relating to personal  
8 service contracts contained in KRS Chapter 45A;
- 9 (d) To appoint, hire, and contract with banks, trust companies, and other entities  
10 to serve as depositories and custodians of its investment receipts and other  
11 funds;
- 12 (e) To take any and all other actions consistent with the purposes of the  
13 commission and the provisions of this chapter; and
- 14 (f) To make and promulgate administrative regulations.
- 15 (4) The Kentucky Workers' Compensation Funding Commission may utilize the  
16 investment expertise and advice of the Office of Financial Management within the  
17 Office of the State Treasurer~~[Finance and Administration Cabinet]~~. The Kentucky  
18 Workers' Compensation Funding Commission may procure one (1) or more  
19 consulting firms and enter into a personal service contract with such consulting  
20 firms to provide investment advisory, investment counseling, or investment  
21 management services. The Office of Financial Management shall participate in the  
22 selection of any firms for investment services provided, however, the Kentucky  
23 Workers' Compensation Funding Commission shall have the right to make the final  
24 decision on the selection of any firms. Notwithstanding any provisions of this  
25 section to the contrary, all contracts for investment advisory, investment counseling,  
26 or investment management services or for the management of assets shall be subject  
27 to KRS Chapter 45A. The fees charged by financial institutions for managing the

1 investments of the funds of the funding commission shall be paid from the  
2 investment earnings of the funds.

3 (5) The commission shall be attached to the Labor Cabinet for administrative purposes  
4 only.

5 ➔Section 27. KRS 342.825 is amended to read as follows:

6 The board shall formulate and adopt an investment policy that safeguards the value of all  
7 assets and maximizes investment potential commensurate with risk and liquidity  
8 restrictions, and supervise the investment activities of the authority subject to the  
9 limitations on domestic insurance companies under KRS Chapter 304. Notwithstanding  
10 any provisions of the Kentucky Revised Statutes to the contrary, the authority may utilize  
11 the investment expertise and advice of the Office of Financial Management in the Office  
12 of the State Treasurer~~[Finance and Administration Cabinet]~~. The authority shall also  
13 retain an independent investment counsel or managers who shall be subject to standards  
14 applicable to fiduciaries responsible for safeguarding assets of a corporation.

15 ➔Section 28. KRS 154.20-035 is amended to read as follows:

16 (1) The authority may, upon approval of the board, borrow money and issue bonds or  
17 notes in accordance with KRS 154.10-035 and other provisions of this chapter  
18 appertaining, subject to Section 4 of this Act~~[KRS 42.420]~~, for the following  
19 purposes:

20 (a) To provide sufficient funds for achieving the authority's purposes and  
21 objectives, including but not limited to, amounts necessary to pay the costs of  
22 acquiring projects or any part thereof; to make loans for the maintenance,  
23 operation, expansion, or development of riverport facilities that are under the  
24 authority of a developmental riverport authority established under KRS  
25 65.520; to make loans for the cost of a project or any part thereof; to make  
26 loans pursuant to KRS 154.10-030(11) for an export-related transaction; to  
27 make grants; to provide money to guarantee or insure loans, leases, bonds,

1 notes, or other indebtedness; to make working capital loans; for all other  
2 expenditures of the authority incident to and necessary or convenient to carry  
3 out the authority's purposes, objectives, and powers; or for any combination of  
4 the foregoing;

5 (b) To refund bonds or notes of the authority issued under this chapter, by the  
6 issuance of new bonds, whether or not the bonds or notes to be refunded have  
7 matured or are subject to prior redemption or are to be paid, redeemed, or  
8 surrendered at the time of issuance of the refunding bonds or notes; and to  
9 issue bonds or notes partly to refund such bonds or notes and partly for any  
10 other purpose provided for by this section; or

11 (c) To pay the costs of issuance of bonds or notes under this chapter; to pay  
12 interest on bonds or notes becoming payable prior to the receipt of the first  
13 revenues available for payment thereof as determined by the board; and to  
14 establish, in full or in part, a reserve for the payment of the principal and  
15 interest on the bonds or notes in such amount as shall be determined by the  
16 board.

17 (2) The bonds and notes, including, but not limited to, commercial paper, shall be  
18 authorized by resolution adopted by the authority, shall bear the date or dates, and  
19 shall mature at the time or times, not exceeding fifty (50) years from the date of  
20 issuance, as the resolution provides. The bonds and notes shall bear interest at the  
21 rate or rates set, reset, or calculated from time to time as provided in the resolution.  
22 The bonds and notes shall be in the denominations; be in the form, either coupon or  
23 registered; carry the registration privileges; be transferable; be executed in the  
24 manner; be payable in the medium of payment, at the place or places; and be subject  
25 to the terms of prior redemption at the option of the authority or the holders thereof  
26 as the resolution or resolutions provide. The bonds and notes of the authority may  
27 be sold at public or private, negotiated sale, at the price or prices the authority

1 determines. Bonds and notes may be sold at a discount.

2 (3) Bonds or notes may be:

3 (a) Made the subject of a put or agreement to repurchase by the authority or  
4 others;

5 (b) Secured by a letter of credit or by any other collateral which the resolution  
6 may authorize;

7 (c) Resold by the authority, once acquired by the authority, pursuant to any put or  
8 repurchase agreement without the acquisition being considered the  
9 extinguishment of the bond or note.

10 (4) The authority may authorize its chairman or other officer to, by order:

11 (a) Sell and deliver, and receive payment for notes or bonds;

12 (b) Refund notes or bonds by the delivery of new notes or bonds, whether or not  
13 the notes or bonds to be refunded have matured, are subject to prior  
14 redemption, or are to be paid, redeemed, or surrendered at the time of the  
15 issuance of refunding bonds or notes;

16 (c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other  
17 authorized purposes;

18 (d) Buy notes or bonds so issued at not more than the face value of the notes or  
19 bonds; or

20 (e) Approve interest rates or methods for fixing interest rates, prices, discounts,  
21 maturities, principal amounts, denominations, dates of issuance, interest  
22 payment dates, redemption rights at the option of the authority or the holder,  
23 the place of delivery and payment, and other matters and procedures necessary  
24 to complete the transactions authorized.

25 (5) Except as provided by the authority, every issue of its notes or bonds shall be  
26 general obligations of the authority payable out of revenues, properties, or money of  
27 the authority, subject only to agreements with the holders of particular notes or



1 bonds pledging particular receipts, revenues, properties, or money as security  
2 therefor.

3 (6) The notes or bonds of the authority shall be and are hereby made negotiable  
4 instruments within the meaning of and for all purposes of the Uniform Commercial  
5 Code, subject only to the provisions of the notes or bonds for registration.

6 (7) A resolution authorizing notes or bonds may contain any or all of the following  
7 covenants which shall be a part of the contract with the holders thereof:

8 (a) A pledge of all or a part of the fees, charges, and revenues made or received  
9 by the authority, or all or a part of the money received in payment of lease  
10 rentals, or loans and interest thereon, and other money received or to be  
11 received to secure the payment of the notes or bonds or an issue thereof,  
12 subject to agreements with bondholders or noteholders as may then exist;

13 (b) A pledge of all or a part of the assets of the authority, including leases, or  
14 notes or mortgages and obligations securing the same to secure the payment of  
15 the notes or bonds or of an issue of notes or bonds, subject to agreements with  
16 noteholders or bondholders as may then exist;

17 (c) A pledge of a loan, grant, or contribution from the federal, state, or  
18 municipality, or source in aid of a project as provided for in this chapter;

19 (d) A provision as to the use and disposition of the revenues and income from  
20 leases, or from loans, notes, and mortgages owned by the authority;

21 (e) A provision as to the establishment and setting aside of reserves or sinking  
22 funds and the regulation and disposition thereof subject to this chapter;

23 (f) Limitations on the purpose to which the proceeds of sale of the notes or bonds  
24 may be applied and limitations on pledging those proceeds to secure the  
25 payment of other bonds or notes;

26 (g) Authority for and limitations on the issuance of additional notes or bonds for  
27 the purposes provided for in the resolution and the terms upon which

- 1 additional notes or bonds may be issued and secured;
- 2 (h) A provision for the procedure, if any, by which the terms of a contract with  
3 noteholders or bondholders may be amended or abrogated, the number of  
4 noteholders or bondholders who are required to consent thereto, and the  
5 manner in which the consent may be given;
- 6 (i) Vesting in a trustee, or a secured party, such property, income, revenues,  
7 receipts, rights, remedies, powers, and duties in trust or otherwise as the  
8 authority may determine necessary to appropriate to adequately secure and  
9 protect noteholders and bondholders or to limit or abrogate the rights of the  
10 noteholders and bondholders. A trust agreement may be executed by the  
11 authority with any trustee who may be located inside or outside this state to  
12 accomplish any of the foregoing;
- 13 (j) Providing for the payment of maintenance and repair costs of a project;
- 14 (k) Establishing the insurance to be carried on a project and the use and  
15 disposition of insurance money and condemnation awards;
- 16 (l) Establishing the terms, conditions, and agreements upon which the holder of  
17 the bonds, or a portion thereof, shall be entitled to the appointment of a  
18 receiver by the Circuit Court. A receiver may enter and take possession of the  
19 project and maintain it or lease or sell it for cash or on an installment sales  
20 contract and prescribe rentals and payments therefor and collect, receive, and  
21 apply all income and revenues thereafter arising in the same manner and to the  
22 same extent as the authority; and
- 23 (m) Providing for any other matters, of like or different character, which in any  
24 way affect the security or protection of the notes or bonds.
- 25 (8) A pledge made by the authority shall be valid and binding from the time the pledge  
26 is made. The money or property pledged and received by the authority shall  
27 immediately be subject to the lien of the pledge without a physical delivery or

1 further act. The lien of the pledge shall be valid and binding as against parties  
2 having claims of any kind in tort, contract, or otherwise against the authority and  
3 shall be valid and binding against the transfer of the money or property pledged,  
4 irrespective of whether the parties have notice. It shall not be necessary to record the  
5 resolution, the trust agreement, or any other instrument by which a pledge is  
6 created.

7 (9) Neither the members of the authority nor any person executing the notes or bonds  
8 shall be liable personally on the notes or bonds or be subject to personal liability or  
9 accountability by reason of the issuance thereof.

10 (10) The state shall not be liable for any financial obligations of the authority nor shall  
11 any such obligations or bonds be considered a debt of the state. The obligations  
12 shall contain on the face thereof a statement indicating this fact.

13 (11) The notes and bonds of the authority shall be securities in which the public officers  
14 and bodies of this state and municipalities and municipal subdivisions, insurance  
15 companies, associations, and other persons carrying on an insurance business,  
16 banks, trust companies, savings banks and savings associations, savings and loan  
17 associations, investment companies, and administrators, guardians, executors,  
18 trustees, and other fiduciaries, and all other persons who are authorized to invest in  
19 bonds or other obligations of the state, may properly and legally invest funds.

20 (12) The property of the authority and its income and operation shall be exempt from all  
21 taxation by this state or any of its political subdivisions. All bonds and notes of the  
22 authority, the interest thereon, and their transfer shall be exempt from all taxation by  
23 this state or any of its political subdivisions, except for estate, gift, and inheritance  
24 taxes, notwithstanding that interest on bonds or notes of the authority may be or  
25 become subject to federal income taxation as a result of legislative action by the  
26 federal government. The state covenants with the purchasers and all subsequent  
27 holders and transferees of notes and bonds issued by the authority under this

1 chapter, in consideration of the acceptance of and payment for the notes and bonds,  
2 that the notes and bonds of the authority, issued pursuant to this chapter, the interest  
3 thereon, the transfer thereof, and all its fees, charges, gifts, grants, revenues,  
4 receipts, and other money received or to be received and pledged to pay or secure  
5 the payment of the notes or bonds shall at all times be free and exempt from all state  
6 or local taxation provided by the laws of this state, except for estate, gift, and  
7 inheritance taxes.

8 ➔Section 29. The following KRS section is repealed:

9 42.400 Office of Financial Management.