

1 AN ACT relating to the reorganization of the Energy and Environment Cabinet.

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

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

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

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

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

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

- 1                   2.    Division of Administrative Services.
- 2                   (e)   Office of Technology Services.
- 3                   (f)   Office of Educational Programs.
- 4                   (g)   Office for Education and Workforce Statistics.
- 5                   (h)   Board of the Kentucky Center for Education and Workforce Statistics.
- 6                   (i)   Board of Directors for the Center for School Safety.
- 7                   (j)   Department of Education.
  - 8                   1.    Kentucky Board of Education.
  - 9                   2.    Kentucky Technical Education Personnel Board.
- 10                  (k)   Department for Libraries and Archives.
- 11                  (l)   Department of Workforce Investment.
  - 12                  1.    Office for the Blind.
  - 13                  2.    Office of Vocational Rehabilitation.
  - 14                  3.    Office of Employment and Training.
    - 15                  a.    Division of Grant Management and Support.
    - 16                  b.    Division of Workforce and Employment Services.
    - 17                  c.    Division of Unemployment Insurance.
- 18                  (m)   Foundation for Workforce Development.
- 19                  (n)   Kentucky Office for the Blind State Rehabilitation Council.
- 20                  (o)   Kentucky Workforce Investment Board.
- 21                  (p)   Statewide Council for Vocational Rehabilitation.
- 22                  (q)   Unemployment Insurance Commission.
- 23                  (r)   Education Professional Standards Board.
  - 24                  1.    Division of Educator Preparation.
  - 25                  2.    Division of Certification.
  - 26                  3.    Division of Professional Learning and Assessment.
  - 27                  4.    Division of Legal Services.

- 1 (s) Kentucky Commission on the Deaf and Hard of Hearing.
- 2 (t) Kentucky Educational Television.
- 3 (u) Kentucky Environmental Education Council.
- 4 (3) Energy and Environment Cabinet:
- 5 (a) Office of the Secretary.
- 6 1. Office of Legislative and Intergovernmental Affairs.
- 7 2. Office of Legal Services~~[General Counsel]~~.
- 8 a. Legal Division I.
- 9 b. Legal Division II.
- 10 3. Office of Administrative Hearings.
- 11 4. Office of Communication.
- 12 5. Mine Safety Review Commission.
- 13 6.~~[5.]~~ Office of Kentucky~~[State]~~ Nature Preserves~~[Commission]~~.
- 14 7.~~[6.]~~ Kentucky Public Service Commission.
- 15 (b) Department for Environmental Protection.
- 16 1. Office of the Commissioner.
- 17 2. Division for Air Quality.
- 18 3. Division of Water.
- 19 4. Division of Environmental Program Support.
- 20 5. Division of Waste Management.
- 21 6. Division of Enforcement.
- 22 7. Division of Compliance Assistance.
- 23 (c) Department for Natural Resources.
- 24 1. Office of the Commissioner.
- 25 2.~~[—Division of Technical and Administrative Support.~~
- 26 ~~3.]~~ Division of Mine Permits.
- 27 3~~[4]~~. Division of Mine Reclamation and Enforcement.

- 1                   ~~4~~[5]. Division of Abandoned Mine Lands.
- 2                   ~~5~~[6]. Division of Oil and Gas.
- 3                   ~~6~~[7]. Division of Mine Safety.
- 4                   ~~7~~[8]. Division of Forestry.
- 5                   ~~8~~[9]. Division of Conservation.
- 6                   ~~9~~[10].       Office of the Reclamation Guaranty Fund.
- 7                   (d) **Office of Energy Policy**~~[Department for Energy Development and~~
- 8                   ~~Independence]~~.
- 9                   1.    Division of **Energy Assistance**~~[Efficiency and Conservation.~~
- 10                  ~~2. — Division of Renewable Energy.~~
- 11                  ~~3. — Division of Biofuels.~~
- 12                  ~~4. — Division of Energy Generation Transmission and Distribution.~~
- 13                  ~~5. — Division of Carbon Management.~~
- 14                  ~~6. — Division of Fossil Energy Development]~~.
- 15                  (4) Public Protection Cabinet.
- 16                  (a) Office of the Secretary.
- 17                  1.    Office of Communications and Public Outreach.
- 18                  2.    Office of Legal Services.
- 19                      a.    Insurance Legal Division.
- 20                      b.    Charitable Gaming Legal Division.
- 21                      c.    Alcoholic Beverage Control Legal Division.
- 22                      d.    Housing, Buildings and Construction Legal Division.
- 23                      e.    Financial Institutions Legal Division.
- 24                  (b) Kentucky Claims Commission.
- 25                  (c) Kentucky Boxing and Wrestling Commission.
- 26                  (d) Kentucky Horse Racing Commission.
- 27                      1.    Office of Executive Director.

- 1 a. Division of Pari-mutuel Wagering and Compliance.
- 2 b. Division of Stewards.
- 3 c. Division of Licensing.
- 4 d. Division of Enforcement.
- 5 e. Division of Incentives and Development.
- 6 f. Division of Veterinary Services.
- 7 (e) Department of Alcoholic Beverage Control.
  - 8 1. Division of Distilled Spirits.
  - 9 2. Division of Malt Beverages.
  - 10 3. Division of Enforcement.
- 11 (f) Department of Charitable Gaming.
  - 12 1. Division of Licensing and Compliance.
  - 13 2. Division of Enforcement.
- 14 (g) Department of Financial Institutions.
  - 15 1. Division of Depository Institutions.
  - 16 2. Division of Non-Depository Institutions.
  - 17 3. Division of Securities.
- 18 (h) Department of Housing, Buildings and Construction.
  - 19 1. Division of Fire Prevention.
  - 20 2. Division of Plumbing.
  - 21 3. Division of Heating, Ventilation, and Air Conditioning.
  - 22 4. Division of Building Code Enforcement.
- 23 (i) Department of Insurance.
  - 24 1. Division of Insurance Product Regulation.
  - 25 2. Division of Administrative Services.
  - 26 3. Division of Financial Standards and Examination.
  - 27 4. Division of Agent Licensing.

- 1                   5.    Division of Insurance Fraud Investigation.
- 2                   6.    Division of Consumer Protection.
- 3                   7.    Division of Kentucky Access.
- 4                   (j)   Department of Professional Licensing.
- 5                    1.    Real Estate Authority.
- 6                   (5)   Labor Cabinet.
- 7                    (a)   Office of the Secretary.
- 8                    1.    Division of Management Services.
- 9                    2.    Office of General Counsel.
- 10                    a.    Workplace Standards Legal Division.
- 11                    b.    Workers' Claims Legal Division.
- 12                   (b)   Office of General Administration and Program Support for Shared
- 13                    Services.
- 14                    1.    Division of Human Resource Management.
- 15                    2.    Division of Fiscal Management.
- 16                    3.    Division of Budgets.
- 17                    4.    Division of Information Services.
- 18                   (c)   Office of Inspector General for Shared Services.
- 19                   (d)   Department of Workplace Standards.
- 20                    1.    Division of Apprenticeship.
- 21                    2.    Division of Occupational Safety and Health Compliance.
- 22                    3.    Division of Occupational Safety and Health Education and
- 23                    Training.
- 24                    4.    Division of Wages and Hours.
- 25                   (e)   Department of Workers' Claims.
- 26                    1.    Division of Workers' Compensation Funds.
- 27                    2.    Office of Administrative Law Judges.

- 1                   3.    Division of Claims Processing.
- 2                   4.    Division of Security and Compliance.
- 3                   5.    Division of Information Services.
- 4                   6.    Division of Ombudsman and Workers' Compensation Specialist
- 5                         Services.
- 6                   7.    Workers' Compensation Board.
- 7                   (f)   Workers' Compensation Funding Commission.
- 8                   (g)   Occupational Safety and Health Standards Board.
- 9                   (h)   Apprenticeship and Training Council.
- 10                  (i)   State Labor Relations Board.
- 11                  (j)   Employers' Mutual Insurance Authority.
- 12                  (k)   Kentucky Occupational Safety and Health Review Commission.
- 13                  (l)   Workers' Compensation Nominating Committee.
- 14                  (6)   Transportation Cabinet:
- 15                         (a)   Department of Highways.
- 16                             1.    Office of Project Development.
- 17                             2.    Office of Project Delivery and Preservation.
- 18                             3.    Office of Highway Safety.
- 19                             4.    Highway District Offices One through Twelve.
- 20                         (b)   Department of Vehicle Regulation.
- 21                         (c)   Department of Aviation.
- 22                         (d)   Department of Rural and Municipal Aid.
- 23                             1.    Office of Local Programs.
- 24                             2.    Office of Rural and Secondary Roads.
- 25                         (e)   Office of the Secretary.
- 26                             1.    Office of Public Affairs.
- 27                             2.    Office for Civil Rights and Small Business Development.

- 1                   3.    Office of Budget and Fiscal Management.
- 2                   4.    Office of Inspector General.
- 3                   (f)   Office of Support Services.
- 4                   (g)   Office of Transportation Delivery.
- 5                   (h)   Office of Audits.
- 6                   (i)   Office of Human Resource Management.
- 7                   (j)   Office of Information Technology.
- 8                   (k)   Office of Legal Services.
- 9           (7)   Cabinet for Economic Development:
- 10           (a)   Office of the Secretary.
- 11                   1.    Office of Legal Services.
- 12                   2.    Department for Business Development.
- 13                            a.    Office of Entrepreneurship.
- 14                                    i.    Commission on Small Business Advocacy.
- 15                            b.    Office of Research and Public Affairs.
- 16                            c.    Bluegrass State Skills Corporation.
- 17                   3.    Office of Financial Services.
- 18                            a.    Kentucky Economic Development Finance Authority.
- 19                            b.    Division of Finance and Personnel.
- 20                            c.    Division of Network Administration.
- 21                            d.    Compliance Division.
- 22                            e.    Incentive Assistance Division.
- 23           (8)   Cabinet for Health and Family Services:
- 24                   (a)   Office of the Secretary.
- 25                   (b)   Office of Health Policy.
- 26                   (c)   Office of Legal Services.
- 27                   (d)   Office of Inspector General.

- 1 (e) Office of Communications and Administrative Review.
- 2 (f) Office of the Ombudsman.
- 3 (g) Office of Finance and Budget.
- 4 (h) Office of Human Resource Management.
- 5 (i) Office of Administrative and Technology Services.
- 6 (j) Department for Public Health.
- 7 (k) Department for Medicaid Services.
- 8 (l) Department for Behavioral Health, Developmental and Intellectual
- 9 Disabilities.
- 10 (m) Department for Aging and Independent Living.
- 11 (n) Department for Community Based Services.
- 12 (o) Department for Income Support.
- 13 (p) Department for Family Resource Centers and Volunteer Services.
- 14 (q) Kentucky Commission on Community Volunteerism and Service.
- 15 (r) Kentucky Commission for Children with Special Health Care Needs.
- 16 (s) Governor's Office of Electronic Health Information.
- 17 (t) Office of Legislative and Regulatory Affairs.
- 18 (9) Finance and Administration Cabinet:
- 19 (a) Office of the Secretary.
- 20 (b) Office of the Inspector General.
- 21 (c) Office of Legislative and Intergovernmental Affairs.
- 22 (d) Office of General Counsel.
- 23 (e) Office of the Controller.
- 24 (f) Office of Administrative Services.
- 25 (g) Office of Policy and Audit.
- 26 (h) Department for Facilities and Support Services.
- 27 (i) Department of Revenue.

- 1 (j) Commonwealth Office of Technology.
- 2 (k) State Property and Buildings Commission.
- 3 (l) Office of Equal Employment Opportunity and Contract Compliance.
- 4 (m) Kentucky Employees Retirement Systems.
- 5 (n) Commonwealth Credit Union.
- 6 (o) State Investment Commission.
- 7 (p) Kentucky Housing Corporation.
- 8 (q) Kentucky Local Correctional Facilities Construction Authority.
- 9 (r) Kentucky Turnpike Authority.
- 10 (s) Historic Properties Advisory Commission.
- 11 (t) Kentucky Tobacco Settlement Trust Corporation.
- 12 (u) Kentucky Higher Education Assistance Authority.
- 13 (v) Kentucky River Authority.
- 14 (w) Kentucky Teachers' Retirement System Board of Trustees.
- 15 (x) Executive Branch Ethics Commission.
- 16 (10) Tourism, Arts and Heritage Cabinet:
- 17 (a) Kentucky Department of Tourism.
- 18 1. Division of Tourism Services.
- 19 2. Division of Marketing and Administration.
- 20 3. Division of Communications and Promotions.
- 21 (b) Kentucky Department of Parks.
- 22 1. Division of Information Technology.
- 23 2. Division of Human Resources.
- 24 3. Division of Financial Operations.
- 25 4. Division of Facilities Management.
- 26 5. Division of Facilities Maintenance.
- 27 6. Division of Customer Services.

- 1                   7.    Division of Recreation.
- 2                   8.    Division of Golf Courses.
- 3                   9.    Division of Food Services.
- 4                   10.   Division of Rangers.
- 5                   11.   Division of Resort Parks.
- 6                   12.   Division of Recreational Parks and Historic Sites.
- 7                   (c)   Department of Fish and Wildlife Resources.
- 8                   1.    Division of Law Enforcement.
- 9                   2.    Division of Administrative Services.
- 10                  3.    Division of Engineering, Infrastructure, and Technology.
- 11                  4.    Division of Fisheries.
- 12                  5.    Division of Information and Education.
- 13                  6.    Division of Wildlife.
- 14                  7.    Division of Marketing.
- 15                  (d)   Kentucky Horse Park.
- 16                  1.    Division of Support Services.
- 17                  2.    Division of Buildings and Grounds.
- 18                  3.    Division of Operational Services.
- 19                  (e)   Kentucky State Fair Board.
- 20                  1.    Office of Administrative and Information Technology Services.
- 21                  2.    Office of Human Resources and Access Control.
- 22                  3.    Division of Expositions.
- 23                  4.    Division of Kentucky Exposition Center Operations.
- 24                  5.    Division of Kentucky International Convention Center.
- 25                  6.    Division of Public Relations and Media.
- 26                  7.    Division of Venue Services.
- 27                  8.    Division of Personnel Management and Staff Development.

- 1                   9.    Division of Sales.
- 2                   10.   Division of Security and Traffic Control.
- 3                   11.   Division of Information Technology.
- 4                   12.   Division of the Louisville Arena.
- 5                   13.   Division of Fiscal and Contract Management.
- 6                   14.   Division of Access Control.
- 7           (f)   Office of the Secretary.
- 8                   1.    Office of Finance.
- 9                   2.    Office of Government Relations and Administration.
- 10                  3.    Office of Film and Tourism Development.
- 11                  4.    Kentucky Sports Authority.
- 12           (g)   Office of Legal Affairs.
- 13           (h)   Office of Human Resources.
- 14           (i)   Office of Public Affairs and Constituent Services.
- 15           (j)   Office of Creative Services.
- 16           (k)   Office of Capital Plaza Operations.
- 17           (l)   Office of Arts and Cultural Heritage.
- 18           (m)   Kentucky African-American Heritage Commission.
- 19           (n)   Kentucky Foundation for the Arts.
- 20           (o)   Kentucky Humanities Council.
- 21           (p)   Kentucky Heritage Council.
- 22           (q)   Kentucky Arts Council.
- 23           (r)   Kentucky Historical Society.
- 24                   1.    Division of Museums.
- 25                   2.    Division of Oral History and Educational Outreach.
- 26                   3.    Division of Research and Publications.
- 27                   4.    Division of Administration.

- 1 (s) Kentucky Center for the Arts.
- 2 1. Division of Governor's School for the Arts.
- 3 (t) Kentucky Artisans Center at Berea.
- 4 (u) Northern Kentucky Convention Center.
- 5 (v) Eastern Kentucky Exposition Center.
- 6 (11) Personnel Cabinet:
- 7 (a) Office of the Secretary.
- 8 (b) Department of Human Resources Administration.
- 9 (c) Office of Employee Relations.
- 10 (d) Kentucky Public Employees Deferred Compensation Authority.
- 11 (e) Office of Administrative Services.
- 12 (f) Office of Legal Services.
- 13 (g) Governmental Services Center.
- 14 (h) Department of Employee Insurance.
- 15 (i) Office of Diversity, Equality, and Training.
- 16 (j) Office of Public Affairs.
- 17 III. Other departments headed by appointed officers:
- 18 (1) Council on Postsecondary Education.
- 19 (2) Department of Military Affairs.
- 20 (3) Department for Local Government.
- 21 (4) Kentucky Commission on Human Rights.
- 22 (5) Kentucky Commission on Women.
- 23 (6) Department of Veterans' Affairs.
- 24 (7) Kentucky Commission on Military Affairs.
- 25 (8) Office of Minority Empowerment.
- 26 (9) Governor's Council on Wellness and Physical Activity.
- 27 (10) Kentucky Communications Network Authority.

1           ➔Section 2. KRS 56.776 is amended to read as follows:

2       The cabinet, with the assistance of the Office of Energy Policy~~[Department for Energy~~  
3 ~~Development and Independence]~~, shall institute an energy audit training program to  
4 identify energy saving techniques for state-owned building maintenance staff. Additional  
5 programs shall be developed to educate state employees and other building occupants on  
6 energy awareness and practices to reduce energy use in state-owned buildings. Local  
7 government employees may be included in training and educational programs.

8           ➔Section 3. KRS 56.777 is amended to read as follows:

9       (1) A High-Performance Buildings Advisory Committee is hereby created and shall be  
10       administratively staffed by the cabinet.

11       (2) The committee shall consist of sixteen (16) members and shall include:

12       (a) A representative of the cabinet designated by the secretary;

13       (b) A representative of the Tourism, Arts and Heritage Cabinet designated by the  
14       secretary;

15       (c) A representative of the Department of Education designated by the  
16       commissioner;

17       (d) A representative of the Council on Postsecondary Education designated by the  
18       president;

19       (e) A representative of the Office of Energy Policy~~[Department for Energy~~  
20 ~~Development and Independence]~~ designated by the executive  
21 director~~[commissioner]~~; and

22       (f) A representative appointed by the Governor from each of the following:

23           1. The design and construction industry involved in public works  
24           contracting;

25           2. The Kentucky Chapter of the U. S. Green Building Council;

26           3. The University of Kentucky College of Design;

27           4. The Kentucky Forest Industries Association;

- 1           5.    The Kentucky Society of the American Institute of Architects;
- 2           6.    The American Society of Heating, Refrigerating, and Air-Conditioning
- 3                 Engineers;
- 4           7.    The Associated General Contractors of Kentucky;
- 5           8.    The West Kentucky Construction Association;
- 6           9.    The Kentucky Manufactured Housing Institute;
- 7           10.   The Kentucky Ready Mixed Concrete Association; and
- 8           11.   The Plantmix Asphalt Industry of Kentucky.

9   (3)   The representative of the cabinet shall serve as the chairperson of the committee.  
10       All appointments shall be for a term of two (2) years. Committee members shall  
11       serve until their successors are appointed and shall be eligible for reappointment.

12   (4)   The committee shall meet at least monthly or as convened by the chairperson.

13   (5)   The members of the committee shall receive reimbursement for the cost of travel to  
14       and from the meetings and any costs necessarily incurred in carrying out their  
15       duties.

16   (6)   The committee shall:

17       (a)   Consult with architects, engineers, builders, energy and conservation  
18       organizations, and other interested stakeholders, and make recommendations  
19       to the cabinet regarding:

- 20           1.   Standards and benchmarks developed under existing high-performance  
21                 building programs, including the ENERGY STAR rating system, Green  
22                 Globes rating system, and Leadership in Energy and Environmental  
23                 Design (LEED) Green Building rating system; and
- 24           2.   Standards and guidelines developed and adopted by the U.S. Green  
25                 Building Council, the American Society of Heating, Refrigerating and  
26                 Air-Conditioning Engineers, and the Illuminating Engineering Society of  
27                 North America partnership concerning the design of sustainable

- 1 buildings to balance environmental responsibility, resource efficiency,  
2 occupant comfort and well-being, and community sensitivity;
- 3 (b) Assist the cabinet in the review of state building projects to ensure that  
4 building performance and efficiency are maximized to the extent  
5 economically feasible using a life-cycle cost analysis;
- 6 (c) Assist the cabinet in developing a process of documentation of the attainment  
7 of high-performance building standards; and
- 8 (d) Assist the cabinet in conducting an ongoing professional development  
9 program for state and local building designers, construction companies, school  
10 districts, building managers, and the general public on high-performance  
11 building design, construction, maintenance, and operation.
- 12 (7) Prior to the implementation of KRS 56.770 to 56.784, the cabinet shall promulgate  
13 administrative regulations pursuant to KRS Chapter 13A necessary to implement  
14 this section. The cabinet shall consider the recommendations made by the High-  
15 Performance Buildings Advisory Committee pursuant to subsection (6) of this  
16 section and shall establish the criteria for the high-performance building standards  
17 and the benchmarks by which the high-performance building standards will be  
18 measured. At a minimum, the cabinet shall:
- 19 (a) Include the standards for site selection and management, water efficiency,  
20 energy conservation, waste reduction, material and resource use, and indoor  
21 air quality; and
- 22 (b) Require that each high-performance building be designed, constructed, or  
23 renovated so that it is capable of being rated as an ENERGY STAR building  
24 in accordance with the criteria and rating system adopted by the United States  
25 Environmental Protection Agency and in effect at the time the building is  
26 designed or, in the case of leased buildings, at the time the lease is entered  
27 into on or after July 1, 2018.

1 (8) In developing the criteria for the high-performance building standards, the cabinet  
2 shall consider and encourage the use of:

3 (a) Locally grown lumber from forest lands implementing sustainable practices  
4 established by the American Tree Farm System's Sustainable Forest Initiative  
5 or the Kentucky Forest Stewardship Program established under KRS 149.330  
6 to 149.355;

7 (b) Building materials manufactured with recycled content within the  
8 Commonwealth; and

9 (c) Renewable energy sources.

10 ➔Section 4. KRS 132.020 is amended to read as follows:

11 (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes  
12 at the rate of:

13 (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100)  
14 of value of all real property directed to be assessed for taxation;

15 (b) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of  
16 value of all privately owned leasehold interests in industrial buildings, as  
17 defined under KRS 103.200, owned and financed by a tax-exempt  
18 governmental unit, or tax-exempt statutory authority under the provisions of  
19 KRS Chapter 103, upon the prior approval of the Kentucky Economic  
20 Development Finance Authority, except that the rate shall not apply to the  
21 proportion of value of the leasehold interest created through any private  
22 financing;

23 (c) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of  
24 value of all qualifying voluntary environmental remediation property,  
25 provided the property owner has corrected the effect of all known releases of  
26 hazardous substances, pollutants, contaminants, petroleum, or petroleum  
27 products located on the property consistent with a corrective action plan

- 1 approved by the Energy and Environment Cabinet pursuant to KRS 224.1-  
2 400, 224.1-405, or 224.60-135, and provided the cleanup was not financed  
3 through a public grant or the petroleum storage tank environmental assurance  
4 fund. This rate shall apply for a period of three (3) years following the Energy  
5 and Environment Cabinet's issuance of a No Further Action Letter or its  
6 equivalent, after which the regular tax rate shall apply;
- 7 (d) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of  
8 value of all tobacco directed to be assessed for taxation;
- 9 (e) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of  
10 value of unmanufactured agricultural products;
- 11 (f) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value  
12 of all farm implements and farm machinery owned by or leased to a person  
13 actually engaged in farming and used in his farm operations;
- 14 (g) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value  
15 of all livestock and domestic fowl;
- 16 (h) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value  
17 of all tangible personal property located in a foreign trade zone established  
18 pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in  
19 accordance with the regulations of the United States Customs Service and the  
20 Foreign Trade Zones Board;
- 21 (i) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all  
22 machinery actually engaged in manufacturing;
- 23 (j) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all  
24 commercial radio and television equipment used to receive, capture, produce,  
25 edit, enhance, modify, process, store, convey, or transmit audio or video  
26 content or electronic signals which are broadcast over the air to an antenna,  
27 including radio and television towers used to transmit or facilitate the

1 transmission of the signal broadcast and equipment used to gather or transmit  
2 weather information, but excluding telephone and cellular communication  
3 towers;

4 (k) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all  
5 tangible personal property which has been certified as a pollution control  
6 facility as defined in KRS 224.1-300. In the case of tangible personal property  
7 certified as a pollution control facility which is incorporated into a landfill  
8 facility, the tangible personal property shall be presumed to remain tangible  
9 personal property for purposes of this paragraph if the tangible personal  
10 property is being used for its intended purposes;

11 (l) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value  
12 of all property which has been certified as an alcohol production facility as  
13 defined in KRS 247.910, or as a fluidized bed energy production facility as  
14 defined in KRS 211.390;

15 (m) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of  
16 motor vehicles qualifying for permanent registration as historic motor vehicles  
17 under the provisions of KRS 186.043;

18 (n) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods  
19 held for sale in the regular course of business, which includes:

20 1. Machinery and equipment held in a retailer's inventory for sale or lease  
21 originating under a floor plan financing arrangement;

22 2. Motor vehicles:

23 a. Held for sale in the inventory of a licensed motor vehicle dealer,  
24 including licensed motor vehicle auction dealers, which are not  
25 currently titled and registered in Kentucky and are held on an  
26 assignment pursuant to the provisions of KRS 186A.230; or

27 b. That are in the possession of a licensed motor vehicle dealer,

1 including licensed motor vehicle auction dealers, for sale, although  
2 ownership has not been transferred to the dealer;

3 3. Raw materials, which includes distilled spirits and distilled spirits  
4 inventory; and

5 4. In-process materials, which includes distilled spirits and distilled spirits  
6 inventory, held for incorporation in finished goods held for sale in the  
7 regular course of business;

8 (o) Ten cents (\$0.10) per one hundred dollars (\$100) of assessed value on the  
9 operating property of railroads or railway companies that operate solely within  
10 the Commonwealth;

11 (p) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed  
12 value on aircraft not used in the business of transporting persons or property  
13 for compensation or hire;

14 (q) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed  
15 value on federally documented vessels not used in the business of transporting  
16 persons or property for compensation or hire, or for other commercial  
17 purposes; and

18 (r) Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all  
19 other property directed to be assessed for taxation shall be paid by the owner  
20 or person assessed, except as provided in KRS 132.030, 132.200, 136.300,  
21 and 136.320, providing a different tax rate for particular property.

22 (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property  
23 shall be reduced to compensate for any increase in the aggregate assessed value of  
24 real property to the extent that the increase exceeds the preceding year's assessment  
25 by more than four percent (4%), excluding:

26 (a) The assessment of new property as defined in KRS 132.010(8);

27 (b) The assessment from property which is subject to tax increment financing

- 1           pursuant to KRS Chapter 65; and
- 2       (c) The assessment from leasehold property which is owned and financed by a
- 3           tax-exempt governmental unit, or tax-exempt statutory authority under the
- 4           provisions of KRS Chapter 103 and entitled to the reduced rate of one and
- 5           one-half cents (\$0.015) pursuant to subsection (1)(b) of this section. In any
- 6           year in which the aggregate assessed value of real property is less than the
- 7           preceding year, the state rate shall be increased to the extent necessary to
- 8           produce the approximate amount of revenue that was produced in the
- 9           preceding year from real property.
- 10   (3) By July 1 each year, the department shall compute the state tax rate applicable to
- 11       real property for the current year in accordance with the provisions of subsection (2)
- 12       of this section and certify the rate to the county clerks for their use in preparing the
- 13       tax bills. If the assessments for all counties have not been certified by July 1, the
- 14       department shall, when either real property assessments of at least seventy-five
- 15       percent (75%) of the total number of counties of the Commonwealth have been
- 16       determined to be acceptable by the department, or when the number of counties
- 17       having at least seventy-five percent (75%) of the total real property assessment for
- 18       the previous year have been determined to be acceptable by the department, make
- 19       an estimate of the real property assessments of the uncertified counties and compute
- 20       the state tax rate.
- 21   (4) If the tax rate set by the department as provided in subsection (2) of this section
- 22       produces more than a four percent (4%) increase in real property tax revenues,
- 23       excluding:
- 24       (a) The revenue resulting from new property as defined in KRS 132.010(8);
- 25       (b) The revenue from property which is subject to tax increment financing
- 26           pursuant to KRS Chapter 65; and
- 27       (c) The revenue from leasehold property which is owned and financed by a tax-

1 exempt governmental unit, or tax-exempt statutory authority under the  
 2 provisions of KRS Chapter 103 and entitled to the reduced rate of one and  
 3 one-half cents (\$0.015) pursuant to subsection (1) of this section;

4 the rate shall be adjusted in the succeeding year so that the cumulative total of each  
 5 year's property tax revenue increase shall not exceed four percent (4%) per year.

6 (5) The provisions of subsection (2) of this section notwithstanding, the assessed value  
 7 of unmined coal certified by the department after July 1, 1994, shall not be included  
 8 with the assessed value of other real property in determining the state real property  
 9 tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also  
 10 be excluded from the provisions of subsection (2) of this section. The calculated  
 11 rate shall, however, be applied to unmined coal property, and the state revenue shall  
 12 be devoted to the program described in KRS 146.550 to 146.570, except that four  
 13 hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to  
 14 the State Treasury and credited to the Office of Energy Policy~~Department for~~  
 15 ~~Energy Development and Independence~~ for the purpose of public education of  
 16 coal-related issues.

17 ➔Section 5. KRS 141.0405 is amended to read as follows:

18 (1) There shall be allowed a nonrefundable credit against taxes imposed by the  
 19 Commonwealth on any taxpayer that:

- 20 (a) 1. Is an electric power company subject to tax under KRS 136.120;  
 21 2. Is an entity that owns or operates a coal-fired electric generation plant;  
 22 or  
 23 3. Is an alternative fuel facility as defined in KRS 154.27-010 or a  
 24 gasification facility as defined in KRS 154.27-010 that has not been  
 25 approved for incentives under Subchapter 27 of KRS Chapter 154;
- 26 (b) Remits tax to the Commonwealth under KRS 136.070, 136.120, 141.020,  
 27 141.040, or 141.0401; and

- 1 (c) Purchases coal subject to the tax imposed under KRS 143.020 that is used:
- 2 1. For the purpose of generating electricity; or
- 3 2. As feedstock for an alternative fuel facility as defined in KRS 154.27-
- 4 010 or a gasification facility as defined in KRS 154.27-010;
- 5 by the taxpayers, or by a parent company if the taxpayer is a wholly owned
- 6 subsidiary.
- 7 (2) The amount of the allowable credit shall be two dollars (\$2) per each incentive ton
- 8 of coal purchased that is subject to tax under KRS 143.020 and that is used to
- 9 generate electric power or used as feedstock for an alternative fuel facility as
- 10 defined in KRS 154.27-010 or a gasification facility as defined in KRS 154.27-010.
- 11 (3) (a) Incentive tons are calculated as the tons of coal purchased in the current year
- 12 for which coal severance tax was paid minus the tons of coal purchased and
- 13 used during the base year.
- 14 (b) For an existing electric power company subject to tax under KRS 136.120 that
- 15 expands operations to include an alternative fuel facility as defined in KRS
- 16 154.27-010 or a gasification facility as defined in KRS 154.27-010, the
- 17 incentive tons for the expanded operation calculated in paragraph (a) of this
- 18 subsection shall not include any coal subject to the incentives provided under
- 19 KRS 143.024 and 154.27-060.
- 20 (4) The base year amount shall be equal to:
- 21 (a) For entities existing on July 14, 2000, that meet the eligibility requirements
- 22 imposed under subsection (1) of this section, the tons of coal purchased and
- 23 used to generate electricity during the twelve (12) calendar months ending in
- 24 December 31, 1999, that were subject to the tax imposed by KRS 143.020; or
- 25 (b) For entities that come into existence after July 14, 2000, that meet the
- 26 eligibility requirements imposed under subsection (1) of this section, the base
- 27 year amount shall be equal to zero (0). However, no company qualifying for

1           the credit as of July 14, 2000, with a base year calculation as provided under  
2           subsection (4)(a) of this section may create an affiliate, subsidiary, or  
3           corporation that would qualify for a base year of zero (0).

4 (5) On or before March 15 of each year, a company eligible for the credit provided  
5           under subsection (2) of this section shall file a coal incentive credit claim on forms  
6           prescribed by the department. At the time of filing for the credit, the taxpayer shall  
7           submit verification of the tons of coal purchased in the base year and the tons of  
8           coal purchased in the year for which the credit is being claimed. The department  
9           shall determine the amount of the eligible credit and issue a credit certificate to the  
10          taxpayer.

11 (6) The taxpayer shall be eligible to apply, subject to the conditions imposed under  
12          subsection (7) of this section, the amount identified on the credit certificate issued  
13          by the department under subsection (5) of this section, against the taxpayer's  
14          liability for the taxes, in consecutive order as follows:

15          (a) The credit shall first be applied against both the taxes imposed by KRS  
16                141.020 or 141.040 and the tax imposed by KRS 141.0401, with the ordering  
17                of credits as provided in KRS 141.0205;

18          (b) The credit shall next be applied to the taxes imposed by KRS 136.070; and

19          (c) Any remaining credit shall be applied against the taxes imposed by KRS  
20                136.120.

21 (7) The credit shall meet the entirety of the taxpayer's liability under the first tax listed  
22          in consecutive order under subsection (6) of this section before applying the  
23          remaining credit to the next tax listed in consecutive order. The taxpayer's total  
24          liability under each preceding tax must be fully met before the remaining credit can  
25          be applied to the subsequent tax listed in consecutive order.

26 (8) The taxpayer shall maintain records required in subsection (5) of this section for a  
27          period of five (5) years.

- 1 (9) Acceptable verification of coal purchased during the base year shall include  
2 invoices that indicate the tons of coal purchased from a Kentucky supplier of coal  
3 and proof of remittance for that purchase.
- 4 (10) The department shall develop the forms required under subsection (5) of this  
5 section, specifying the procedure for claiming the credit, and applying the credit  
6 against the taxpayer's liability in the order provided under subsections (6) and (7) of  
7 this section.
- 8 (11) The Office of Energy Policy~~Department for Energy Development and~~  
9 ~~Independence~~ shall:
- 10 (a) 1. Certify that an alternative fuel facility for which a credit is being  
11 requested meets the definition as provided in KRS 154.27-010; or  
12 2. Certify that a gasification facility for which a credit is being requested  
13 meets the definition as provided in KRS 154.27-010; and
- 14 (b) Notify the department of the certification.
- 15 (12) To assist in determining the amount of coal purchased and used that is eligible for  
16 the credit, the department shall obtain from the University of Kentucky Center for  
17 Applied Energy Research a reasonable and typical estimate of the tons of coal  
18 needed to produce a given output of coal-derived alternative transportation fuels,  
19 coal-derived synthetic natural gas, coal-derived liquid fuels, or other coal-derived  
20 chemicals or chemical feedstocks, considering:
- 21 (a) The type of coal to be used;  
22 (b) Equipment to be employed;  
23 (c) Size and output of the facility;  
24 (d) Slate of products produced; and  
25 (e) Other characteristics of the alternative fuel facility or gasification facility.
- 26 ➔Section 6. KRS 141.428 is amended to read as follows:
- 27 (1) As used in this section:

- 1 (a) "Clean coal facility" means an electric generation facility beginning  
2 commercial operation on or after January 1, 2005, at a cost greater than one  
3 hundred fifty million dollars (\$150,000,000) that is located in the  
4 Commonwealth of Kentucky and is certified by the Energy and Environment  
5 Cabinet as reducing emissions of pollutants released during generation of  
6 electricity through the use of clean coal equipment and technologies;
- 7 (b) "Clean coal equipment" means equipment purchased and installed for  
8 commercial use in a clean coal facility to aid in reducing the level of  
9 pollutants released during the generation of electricity from eligible coal;
- 10 (c) "Clean coal technologies" means technologies incorporated for use within a  
11 clean coal facility to lower emissions of pollutants released during the  
12 generation of electricity from eligible coal;
- 13 (d) "Eligible coal" means coal that is subject to the tax imposed under KRS  
14 143.020;
- 15 (e) "Ton" means a unit of weight equivalent to two thousand (2,000) pounds; and  
16 (f) "Taxpayer" means taxpayer as defined in KRS 131.010(4).
- 17 (2) Effective for tax years ending on or after December 31, 2006, a nonrefundable,  
18 nontransferable credit shall be allowed for:
- 19 (a) Any electric power company subject to tax under KRS 136.120 and certified  
20 as a clean coal facility or any taxpayer that owns or operates a clean coal  
21 facility and purchases eligible coal that is used by the taxpayer in a certified  
22 clean coal facility; or
- 23 (b) A parent company of an entity identified in paragraph (a) of this subsection if  
24 the subsidiary is wholly owned.
- 25 (3) (a) The credit may be taken against the taxes imposed by:  
26 1. KRS 136.070;  
27 2. KRS 136.120; or

- 1           3.    KRS 141.020 or 141.040, and 141.0401.
- 2           (b)   The credit shall not be carried forward and must be used on the tax return filed  
3           for the period during which the eligible coal was purchased. The Energy and  
4           Environment Cabinet must approve and certify use of the clean coal  
5           equipment and technologies within a clean coal facility before any taxpayer  
6           may claim the credit.
- 7           (c)   The credit allowed under paragraph (a) of this subsection shall be applied both  
8           to the income tax imposed under KRS 141.020 or 141.040 and to the limited  
9           liability entity tax imposed under KRS 141.0401, with the ordering of credits  
10          as provided in KRS 141.0205.
- 11       (4)   The amount of the allowable credit shall be two dollars (\$2) per ton of eligible coal  
12          purchased that is used to generate electric power at a certified clean coal facility,  
13          except that no credit shall be allowed if the eligible coal has been used to generate a  
14          credit under KRS 141.0405 for the taxpayer, a parent, or a subsidiary.
- 15       (5)   Each taxpayer eligible for the credit provided under subsection (2) of this section  
16          shall file a clean coal incentive credit claim on forms prescribed by the Department  
17          of Revenue. At the time of filing for the credit, the taxpayer shall submit an  
18          electronic report verifying the tons of coal subject to the tax imposed by KRS  
19          143.020 purchased for each year in which the credit is claimed. The Department of  
20          Revenue shall determine the amount of the approved credit and issue a credit  
21          certificate to the taxpayer.
- 22       (6)   Corporations and pass-through entities subject to the tax imposed under KRS  
23          141.040 or 141.0401 shall be eligible to apply, subject to the conditions imposed  
24          under this section, the approved credit against its liability for the taxes, in  
25          consecutive order as follows:
- 26           (a)   The credit shall first be applied against both the tax imposed by KRS  
27           141.0401 and the tax imposed by KRS 141.020 or 141.040, with the ordering

1 of credits as provided in KRS 141.0205;

2 (b) The credit shall then be applied to the tax imposed by KRS 136.120.

3 The credit shall meet the entirety of the taxpayer's liability under the first tax listed  
4 in consecutive order before applying any remaining credit to the next tax listed. The  
5 taxpayer's total liability under each preceding tax must be fully met before the  
6 remaining credit can be applied to the subsequent tax listed in consecutive order.

7 (7) If the taxpayer is a pass-through entity not subject to tax under KRS 141.040, the  
8 amount of approved credit shall be applied against the tax imposed by KRS  
9 141.0401 at the entity level, and shall also be distributed to each partner, member,  
10 or shareholder based on the partner's, member's, or shareholder's distributive share  
11 of the income of the pass-through entity. The credit shall be claimed in the same  
12 manner as specified in subsection (6) of this section. Each pass-through entity shall  
13 notify the Department of Revenue electronically of all partners, members, or  
14 shareholders who may claim any amount of the approved credit. Failure to provide  
15 information to the Department of Revenue in a manner prescribed by regulation  
16 may constitute the forfeiture of available credits to all partners, members, or  
17 shareholders associated with the pass-through entity.

18 (8) The taxpayer shall maintain all records associated with the credit for a period of five  
19 (5) years. Acceptable verification of eligible coal purchased shall include invoices  
20 that indicate the tons of eligible coal purchased from a Kentucky supplier of coal  
21 and proof of remittance for that purchase.

22 (9) The Department of Revenue shall develop the forms required under this section,  
23 specifying the procedure for claiming the credit, and applying the credit against the  
24 taxpayer's liability in the order provided under subsections (6) and (7) of this  
25 section.

26 (10) The Office of Energy Policy~~Department for Energy Development and~~  
27 ~~Independence~~ within the Energy and Environment Cabinet and the Department of

1 Revenue shall promulgate administrative regulations necessary to administer this  
2 section.

3 (11) This section shall be known as the Kentucky Clean Coal Incentive Act.

4 ➔Section 7. KRS 141.436 is amended to read as follows:

5 (1) (a) For taxable periods beginning after December 31, 2008, and beginning before  
6 January 1, 2016, there is hereby created a nonrefundable credit against the tax  
7 imposed under KRS 141.020 or 141.040, and KRS 141.0401, with the  
8 ordering of credits as provided in KRS 141.0205. The credit shall apply if one  
9 (1) or more of the items listed in paragraph (b) of this subsection is installed  
10 during the taxable year in a dwelling unit located in the Commonwealth that is  
11 owned by the taxpayer and used by the taxpayer as:

- 12 1. The taxpayer's principal place of residence; or
- 13 2. A single-family or multifamily residential rental unit.

14 (b) The tax credit shall equal thirty percent (30%) of the installed costs of:

- 15 1. Upgraded insulation, not to exceed one hundred dollars (\$100);
- 16 2. Energy-efficient windows and storm doors, not to exceed two hundred  
17 fifty dollars (\$250); or
- 18 3. Qualified energy property, not to exceed two hundred fifty dollars  
19 (\$250).

20 (c) In no case shall the total credits provided under this subsection exceed five  
21 hundred dollars (\$500) per taxpayer.

22 (2) (a) For taxable years beginning after December 31, 2008, and beginning before  
23 January 1, 2016, there is hereby created a nonrefundable credit against the tax  
24 imposed under KRS 141.020 or 141.040, and KRS 141.0401, with the  
25 ordering of credits as provided in KRS 141.0205, if one (1) or more of the  
26 items listed in paragraph (b) of this subsection is installed during the taxable  
27 year on a dwelling unit located in the Commonwealth, or on property located

1 in the Commonwealth that is owned and used by the taxpayer as commercial  
2 property.

3 (b) The tax credit shall equal:

4 1. Thirty percent (30%) of the installed costs of:

5 a. An active solar space-heating system;

6 b. A passive solar space-heating system;

7 c. A combined active solar space-heating and water-heating system;

8 d. A solar water-heating system; and

9 e. A wind turbine or wind machine; or

10 2. Three dollars (\$3) per watt direct current (DC) of rated capacity of a  
11 solar photovoltaic system.

12 (c) In no case shall the total tax credits provided in this subsection exceed:

13 1. Five hundred dollars (\$500) per taxpayer if installed on a dwelling unit  
14 located in the Commonwealth that is owned by the taxpayer and used by  
15 the taxpayer as:

16 a. The taxpayer's principal place of residence; or

17 b. A single-family residential rental unit; or

18 2. One thousand dollars (\$1,000) per taxpayer if installed on property  
19 located in the Commonwealth that is owned and used by the taxpayer as:

20 a. A multifamily residential rental unit; or

21 b. Commercial property;

22 (3) (a) For taxable years beginning after December 31, 2008, and beginning before  
23 January 1, 2016, there is hereby created a nonrefundable credit against the tax  
24 imposed under KRS 141.020 or 141.040, and KRS 141.0401, with the  
25 ordering of credits as provided in KRS 141.0205, if one (1) or more of the  
26 following is installed during the taxable year on property located in the  
27 Commonwealth that is owned and used by the taxpayer as commercial

1 property:

- 2 1. An energy-efficient interior lighting system; and  
3 2. An energy-efficient heating, cooling, ventilation, or hot water system.

4 (b) The tax credit shall equal thirty percent (30%) of the installed costs of:

- 5 1. An energy-efficient interior lighting system, not to exceed five hundred  
6 dollars (\$500) per taxpayer; and  
7 2. An energy-efficient heating, cooling, ventilation, or hot water system,  
8 not to exceed five hundred dollars (\$500) per taxpayer.

9 (c) In no case shall the total tax credits provided in this subsection exceed one  
10 thousand dollars (\$1,000) per taxpayer.

11 (d) For purposes of the tax credit provided by this subsection, "commercial  
12 property" shall not include single-family or multifamily residential units.

13 (4) The tax credits provided under this section shall apply in the tax year in which the  
14 installation is completed. If the credit cannot be taken in full in the year in which the  
15 installation is completed, the tax credit may be carried forward one (1) year.

16 (5) The department may request copies of invoices, purchase receipts, installation  
17 contracts, proof of installer's NABCEP certification, and any other information that  
18 the department determines necessary to verify credits taken.

19 (6) If the taxpayer has taken the ENERGY STAR home or the ENERGY STAR  
20 manufactured home tax credit provided under KRS 141.437, the tax credits  
21 provided under this section shall not apply.

22 (7) The department shall establish, by administrative regulation, the guidelines and  
23 technical requirements for items that are eligible for the tax credits provided under  
24 subsection (2) of this section, including but not limited to requirements for capacity,  
25 siting, plumbing, collector mountings, and pressurization. The department shall  
26 enlist the assistance, cooperation, and recommendations of the Office of Energy  
27 Policy~~Department for Energy Development and Independence~~ and the Kentucky

1 Pollution Prevention Center at the University of Louisville in determining those  
2 guidelines and technical requirements and may enlist their assistance in evaluating  
3 the eligibility of credits taken under this section.

4 (8) On or before December 1, 2010, and on or before every December 1 thereafter, the  
5 department shall report to the Legislative Research Commission the total number  
6 and gross amount of each type of tax credit claimed on returns processed during the  
7 fiscal year ending prior to the December reporting date.

8 ➔Section 8. KRS 141.470 is amended to read as follows:

9 The Office of Kentucky Nature Preserves~~[Commission]~~ shall maintain a separate account  
10 showing all remittances to, and disbursements from, the Kentucky nature preserves fund  
11 made from contributions under KRS 141.455. Contributions remitted to the Kentucky  
12 nature preserves fund under KRS 141.465 shall be disbursed by the Office of Kentucky  
13 Nature Preserves~~[Commission]~~ for the acquisition of land or interests in land as provided  
14 in KRS 146.465 and for the protection, maintenance, and use of the land, and for no other  
15 purpose.

16 ➔Section 9. KRS 143.090 is amended to read as follows:

17 (1) The Transportation Cabinet shall certify to the commissioner of the Department of  
18 Revenue by October 1 of each fiscal year the amount required for lease rental  
19 payments to the Kentucky Turnpike Authority for resource recovery road projects.

20 (2) The Office of Energy Policy~~[Department for Energy Development and~~  
21 ~~Independence]~~ shall certify to the commissioner of the Department of Revenue by  
22 October 1 of each year the amount of the annual lease rental payments required to  
23 be made for any energy research development or demonstration project undertaken  
24 by the Office of Energy Policy~~[Department for Energy Development and~~  
25 ~~Independence]~~. The amount so certified shall in no case exceed three million dollars  
26 (\$3,000,000) in any one (1) year.

27 (3) Upon receiving the certifications provided for in subsections (1) and (2) of this

1 section, the commissioner of the Department of Revenue shall cause the certified  
 2 amounts to be deposited from the proceeds of the tax levied by KRS 143.020 to the  
 3 credit of the transportation fund and the Office of Energy Policy~~Department for~~  
 4 ~~Energy Development and Independence~~, respectively, unless otherwise provided by  
 5 the General Assembly in a budget bill, as follows:

- 6 (a) An amount equal to the amount certified by the Transportation Cabinet shall  
 7 be deposited to the transportation fund (road fund); and
- 8 (b) An amount equal to the amount certified by the Office of Energy  
 9 Policy~~Department for Energy Development and Independence~~ shall be  
 10 transferred by appropriate interfund transfer procedures to the Office of  
 11 Energy Policy~~Department for Energy Development and Independence~~.
- 12 (4) All tax levied by KRS 143.020 collected in excess of the amount required to be  
 13 deposited to the transportation fund (road fund) or transferred to the Office of  
 14 Energy Policy~~Department for Energy Development and Independence~~ shall be  
 15 deposited by the Department of Revenue to the credit of the general fund.
- 16 (5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified  
 17 under subsections (1) and (2) of this section, the commissioner of revenue shall  
 18 prorate the proceeds to the transportation fund and the Office of Energy  
 19 Policy~~Department for Energy Development and Independence~~ based upon the  
 20 ratio of each certified amount to the total of the two (2) certified amounts.

21 ➔Section 10. KRS 146.210 is amended to read as follows:

22 As used in KRS 146.210 to 146.360, the words listed herein shall have the following  
 23 respective meanings, unless another or different meaning or intent shall be clearly  
 24 indicated by the context:

- 25 (1) "Stream or watercourse" shall mean a flowing body of water or a section or portion  
 26 thereof, including rivers, streams, and creeks.
- 27 (2) "Free flowing" shall mean existing or flowing in a natural condition without

1 impoundment, diversion, straightening, riprapping, or other modification of the  
2 waterway. The existence, however, of low dams, diversion works, and other minor  
3 structures at the time any stream is proposed for inclusion in the Wild Rivers  
4 System shall not automatically bar its consideration for such inclusion; provided,  
5 that this shall not be construed to authorize or to be intended to encourage future  
6 construction of such structures within components of the Wild Rivers System.

7 (3) "Road" shall mean a highway, a hard-surfaced road, or an improved or unimproved  
8 dirt road. The existence, however, of unimproved roads at the time any stream is  
9 proposed for inclusion in the Wild Rivers System shall not automatically bar its  
10 consideration for such inclusion; provided, that this shall not be construed to  
11 authorize or to be intended to encourage future construction of such roads where  
12 this would be contrary to the provisions of KRS 146.200 to 146.360.

13 (4) "Wilderness type recreation" shall mean activities such as fishing, hunting,  
14 canoeing, camping, hiking, horseback riding, exploring, archaeological and  
15 scientific investigation, and scenic and aesthetic enjoyment, which utilizes and  
16 protects to the highest degree the primitive and natural values of the area.

17 (5) "Visual horizon" shall mean the normal distance to which land and vegetative  
18 features can be unobstructedly viewed from the center of the stream.

19 (6) "Access point" shall mean an area along the stream under public ownership, or  
20 under easement acquired by agreement with a private landowner. This area would  
21 be available for public recreational use including, but not limited to, the launching  
22 of boats, picnicking, and camping.

23 (7) "Secretary" shall mean the secretary of the Energy and Environment Cabinet or the  
24 successor to that office.

25 **(8) "Office" shall mean the Office of Kentucky Nature Preserves.**

26 ➔Section 11. KRS 146.230 is amended to read as follows:

27 Streams which substantially meet the following criteria are eligible for inclusion in the

1 Wild Rivers System:

2 Streams or sections of streams that are essentially free-flowing, with shorelines and  
 3 scenic vistas essentially primitive and unchanged, free from evidence of the works of  
 4 man, and pleasing to the eye. The waters shall not be polluted beyond feasible correction  
 5 and shall be kept unpolluted once corrected according to standards established by the  
 6 Energy and Environment Cabinet **through the Office of Kentucky Nature Preserves**. The  
 7 area may provide a high quality fish and wildlife habitat, containing one or more unique  
 8 or rare species for sport or observation. It may provide opportunities for scientific study  
 9 or appreciation of essentially undisturbed ecological, geologic, or archaeological  
 10 conditions. It shall provide wilderness type recreation such as canoeing and hiking, or  
 11 specialized uses without disturbing the primitive character of the area.

12 →Section 12. KRS 146.250 is amended to read as follows:

13 ~~The secretary of the Energy and Environment Cabinet shall, by June 16, 1974, determine~~  
 14 ~~generally the~~ boundaries of a~~the~~ stream area associated with a~~the~~ stream or stream  
 15 segment~~initially~~ included in the Wild Rivers System by KRS 146.200 to 146.360 **shall**  
 16 **include**~~. Establishment of these boundaries shall be accomplished in such a way that it~~  
 17 ~~includes~~ at least the visual horizon from the stream, but not more than two thousand  
 18 (2,000) feet from the center of the stream. The boundary shall further include access  
 19 points, at the upstream and downstream boundary of the area.

20 →Section 13. KRS 146.260 is amended to read as follows:

21 (1) The **office**~~secretary for energy and environment~~ shall study and from time to time  
 22 submit to the Governor and to the General Assembly proposals for additions to the  
 23 Wild Rivers System of streams and sections of streams **that**~~which, in his judgment,~~  
 24 ~~would~~ qualify for inclusion therein. Each proposal shall be accompanied by:

- 25 (a) A detailed map showing the boundaries of the stream or sections of streams  
 26 and those adjacent lands needed to protect and administer the needed controls.  
 27 (b) The category of the proposed additions in accordance with KRS 146.230.

1 (c) A detailed report on the factors which make the area a worthy addition to the  
2 system.

3 (2) The intention of this requirement is to insure that such studies will be made; it is not  
4 intended to preclude or discourage, but rather encourage similar studies and  
5 proposals by other agencies or by citizen groups working independently. Authority  
6 for additions to the Wild Rivers System shall remain exclusively with the Kentucky  
7 General Assembly.

8 ➔Section 14. KRS 146.270 is amended to read as follows:

9 The Wild Rivers System shall be administered by the Office of Kentucky Nature  
10 Preserves~~[Energy and Environment Cabinet]~~ according to the policies and criteria set  
11 forth in KRS 146.200 to 146.360. The cabinet upon recommendation of the  
12 office~~[secretary]~~ shall adopt rules or promulgate administrative regulations necessary for  
13 the preservation and enhancement of the stream areas as set forth in KRS 146.250, and  
14 for control of recreational, educational, scientific, and other uses of these areas in a  
15 manner that shall not impair them. In administration primary emphasis shall be given to  
16 protecting aesthetic, scenic, historic, archaeologic, and scientific features of the area. The  
17 office~~[secretary]~~ shall develop a management plan for a designated stream area~~[and shall~~  
18 ~~publicize and hold public hearings and record the views expressed on each plan~~  
19 ~~developed]~~. Management plans for a given stream area may establish varying degrees of  
20 intensity for its protection, based on special attributes of each area, but shall follow the  
21 concepts embodied in KRS 146.230. No public use of lands within the boundaries of a  
22 designated wild river area in which the state has acquired an interest shall be permitted  
23 prior to the development of a management plan.~~[Any management plan shall be~~  
24 ~~developed jointly with the Department of Fish and Wildlife Resources with respect to~~  
25 ~~those aspects of the plan as relate to the jurisdiction of that department over fish and~~  
26 ~~wildlife resources.]~~

27 ➔Section 15. KRS 146.280 is amended to read as follows:

1 ~~[(1)]~~ Within the watershed~~[boundaries]~~ of a designated stream area, as established and  
 2 authorized by the Kentucky General Assembly, the office~~[secretary]~~ shall be authorized  
 3 and empowered to acquire by purchase, exercise of the rights of eminent domain, grant,  
 4 gift, devise, or otherwise, the fee simple title, an easement, or any acceptable lesser  
 5 interest in any lands, and by lease or conveyance, contract for the right to use and occupy  
 6 any lands. Where property within such boundaries is owned by the federal government,  
 7 the office~~[secretary]~~ can enter into agreements with the landowning agency concerning  
 8 use of the property consistent with the objectives of KRS 146.200 to 146.360. Nothing in  
 9 KRS 146.200 to 146.360 shall be construed to deprive a landowner of the fee simple title  
 10 to or lesser interest in his property without just compensation.

11 ~~[(2) The secretary may not exercise authority to acquire lands or interests in lands~~  
 12 ~~located within any incorporated city, village, or county when such entities have in~~  
 13 ~~force a duly adopted, valid ordinance or plan for the management, zoning and~~  
 14 ~~protection of such lands in accordance with the provisions of KRS 146.200 to~~  
 15 ~~146.360.]~~

16 ➔Section 16. KRS 146.290 is amended to read as follows:

17 (1) The provisions of this section shall not apply to those uses existing at such time as a  
 18 stream is included in the system.

19 (2) Land uses to be allowed within the boundaries of a designated stream area shall be  
 20 as follows:

21 New roads, structures or buildings may be constructed only where necessary  
 22 to effect a use permitted under the other provisions of KRS 146.200 to 146.360.  
 23 Utility lines or pipelines may be constructed as approved by the office~~[secretary]~~ in  
 24 writing and under provision that the affected land be restored as nearly as possible  
 25 to its former state. This provision, however, shall in no way affect the rights  
 26 between a landowner and a utility company or pipeline company. There shall be no  
 27 strip mining as defined in KRS 350.010, and select cutting of timber or other

1 resource removal and agricultural use, may be allowed pursuant to regulations  
 2 promulgated by the secretary upon the granting of a permit under the other  
 3 provisions of KRS 146.200 to 146.360. All instream disturbances such as dredging,  
 4 shall be prohibited. Except for the management agency and any existing uses which  
 5 do not conform to the purposes and intent of KRS 146.200 to 146.360, travel upon a  
 6 wild river or any public lands within the designated boundaries thereof, shall be by  
 7 foot, horseback, canoe, boat or other nonmechanical modes of transportation. If  
 8 there are existing agricultural areas within the boundaries of the area, such areas  
 9 may continue to be used for agricultural purposes.

10 (3) Any landowner within the boundaries of the area may apply to the office~~[secretary]~~  
 11 for a change of use to permit the select cutting of timber, a resource removal or an  
 12 agricultural use upon his property located within the area~~[and the secretary shall~~  
 13 ~~hold a public hearing after public notice on the application within sixty (60) days].~~  
 14 **The office shall provide public notice within sixty (60) days of receipt of permit**  
 15 **application.** The landowner or any interested person shall be allowed to  
 16 submit~~[present]~~ evidence as to whether the proposed use by the applying landowner  
 17 is in accordance with the management plan developed pursuant to KRS 146.270, the  
 18 purpose and intent of the Wild Rivers Act as expressed in KRS 146.220, and other  
 19 applicable law.

20 (4) The office~~[secretary]~~ shall, within sixty (60) days after **public notice is given**~~[said~~  
 21 ~~hearing]~~, either:  
 22 (a) Issue an order, with accompanying opinion, denying the permit; or  
 23 (b) Issue an order, with accompanying opinion, granting the permit with such  
 24 restrictions, terms and conditions as are appropriate to protect to the fullest  
 25 extent possible the wild rivers area and the public trust therein within the  
 26 intent of KRS 146.220; or  
 27 (c) Recommend an alternate use to which the land may be put under KRS

1 146.200 to 146.360 which is more consistent with the purposes and intent of  
 2 KRS 146.200 to 146.360 than the use for which application was made; or

3 (d) Institute condemnation proceedings in the circuit court of the county in which  
 4 the land is located or else negotiate a purchase of the land affected, or any  
 5 interest therein.

6 (5) On or before thirty (30) days from the date of the office's determination~~[secretary's~~  
 7 ~~ruling]~~, the landowner may file with the office~~[department]~~ a written objection to  
 8 the determination~~[ruling]~~. If, within the next sixty (60) days the landowner and the  
 9 secretary are unable to reach an agreement with respect to a modification of the  
 10 determination~~[his ruling]~~, the office~~[secretary]~~ must either permit the use applied  
 11 for, condemn the property, or petition the Franklin Circuit Court for an order  
 12 restraining the proposed use. The order shall be entered immediately upon the filing  
 13 of the petition and the execution of a bond without surety by the Commonwealth in  
 14 an amount satisfactory to the court to indemnify the landowner against loss of  
 15 profits from any wrongful restraint of the use of his property during the period from  
 16 the filing of the petition until such time as the matter is concluded by the courts.  
 17 The court shall review the decision as to both law and fact; but no factual finding  
 18 shall be reversed unless clearly erroneous or else arbitrary, capricious, or an abuse  
 19 of discretion.

20 ➔Section 17. KRS 146.310 is amended to read as follows:

21 All state agencies shall~~[,]~~ promptly~~[upon June 16, 1972,]~~ inform the office~~[secretary for~~  
 22 ~~energy and environment]~~ of any proceedings, studies, or other activities within their  
 23 jurisdictions, and regardless of by whom requested, which are now in progress and which  
 24 affect or may affect any of the streams specified in KRS 146.241. They shall likewise  
 25 inform the office~~[him]~~ of any such proceedings, studies or other activities that~~[which]~~ are  
 26 hereafter commenced or resumed before they are commenced or resumed.

27 ➔Section 18. KRS 146.320 is amended to read as follows:

1 Nothing in KRS 146.200 to 146.360 shall preclude a component of the Wild Rivers  
2 System from becoming a part of the National Wild and Scenic Rivers System. The  
3 office~~[secretary]~~ shall be directed to encourage and assist any federal studies for inclusion  
4 of Kentucky streams in the National Wild and Scenic Rivers System. The  
5 office~~[secretary]~~ may enter into written cooperative agreements for joint federal-state or  
6 interstate administration of a Kentucky component of the National Wild and Scenic  
7 Rivers System, provided agreements for the administration of water and land uses are not  
8 less restrictive than those set forth in KRS 146.200 to 146.360.

9       ➔Section 19. KRS 146.330 is amended to read as follows:

10 The office~~[secretary]~~ may employ such technical, clerical, stenographic, and other  
11 employees and assistants as are required to effectively carry out the~~[his]~~ duties and  
12 responsibilities as provided in KRS 146.200 to 146.360.

13       ➔Section 20. KRS 146.340 is amended to read as follows:

14 A fund for the purpose of carrying out the provisions of KRS 146.200 to 146.360 is  
15 hereby created to be designated as a "Wild Rivers System fund" to consist of all revenues  
16 derived from privileges, concessions, contracts, or otherwise, all moneys received by  
17 gifts, contributions, donations, and grants from public or private sources. Such "Wild  
18 Rivers System fund" shall be disbursed by the office~~[Energy and Environment Cabinet]~~,  
19 after appropriations are made by law, for administration and other expenses and for other  
20 purposes provided by KRS 146.200 to 146.360.

21       ➔Section 21. KRS 146.350 is amended to read as follows:

22 It shall be the duty of the cabinet's Office of Legal Services, or upon the secretary's  
23 request, of the Attorney General, to bring an action for the recovery of the penalties  
24 provided for in KRS 146.990 and to bring an action for a restraining order, temporary or  
25 permanent injunction, for the prevention or correction of a condition constituting or  
26 threatening to constitute a violation of KRS 146.200 to 146.619~~[146.360]~~. All actions for  
27 injunctive relief for violation of KRS 146.200 to 146.619~~[146.360]~~ shall be brought in the

1 name of the Commonwealth of Kentucky by the cabinet's Office of Legal Services, or  
 2 upon the secretary's request, by the Attorney General in the Franklin Circuit Court. If the  
 3 action seeks recovery of penalties in addition to injunctive relief, it shall be brought to  
 4 one (1) of the counties through which the designated portion of the river runs.

5 ➔Section 22. KRS 146.415 is amended to read as follows:

6 As used in KRS 146.410 to 146.530:

- 7 (1) "Natural area" means any area of land or water, or of both land and water, in public  
 8 or private ownership, which either retains, or has reestablished to some degree in  
 9 the judgment of the ~~office~~~~commission~~ its natural character, though it need not be  
 10 completely natural and undisturbed, or which has natural flora, fauna, biological,  
 11 ecological, geological, scenic or archaeological features of scientific, aesthetic,  
 12 cultural or educational interest;
- 13 (2) "Nature preserve" means a natural area, and land necessary for its protection, any  
 14 estate, interest or right in which has been formally dedicated under the provisions of  
 15 KRS 146.410 to 146.530 to be maintained as nearly as possible in its natural  
 16 condition and to be used in a manner and under limitations consistent with its  
 17 continued preservation, without impairment, disturbance or artificial development,  
 18 for the public purposes of present and future scientific research, education, aesthetic  
 19 enjoyment and habitat for plant and animal species and other natural objects;
- 20 (3) "Articles of dedication" means the writing by which any estate, interest or right in a  
 21 natural area is formally dedicated, as provided in KRS 146.410 to 146.530;
- 22 (4) "~~Office~~"~~Commission~~ means the Office of Kentucky~~State~~ Nature Preserves~~Commission~~;
- 23 ~~Commission~~;
- 24 (5) "System" means the state system of nature preserves established under KRS  
 25 146.410 to 146.530;
- 26 (6) "Cabinet" means the Energy and Environment Cabinet;
- 27 (7) "Executive director" means the executive director of the Office of Kentucky~~State~~

1 Nature Preserves~~[Commission]~~; and

2 (8) "Secretary" means the secretary of the Energy and Environment Cabinet.

3 ➔Section 23. KRS 146.430 is amended to read as follows:

4 (1) **The Office of Kentucky Nature Preserves is hereby created within the office of the**  
 5 **secretary to carry out the purposes of KRS 146.200 to 146.619.** In order to  
 6 effectuate and administer KRS **146.200 to 146.619**~~[146.410 to 146.530]~~, the  
 7 secretary may appoint a full-time **executive** director~~[, with the approval of the~~  
 8 ~~commission,]~~ who shall be qualified by training and experience to perform the  
 9 duties of this office and carry out the purpose of KRS **146.200 to 146.619**~~[146.410~~  
 10 ~~to 146.530]~~, and who shall hold office at the pleasure of the secretary. The salary of  
 11 the director shall be determined by the secretary. The **executive director**  
 12 **shall**~~[secretary shall, upon the advice and consent of the commission,]~~ employ and  
 13 fix the compensation of such personnel as may be necessary to effectuate the  
 14 provisions of KRS **146.200 to 146.619**~~[146.410 to 146.530]~~.

15 (2) The **executive** director shall, upon the advice and consent of the~~[commission and~~  
 16 ~~the]~~ secretary, provide for the allocation of the work and activities of all employees  
 17 of the **office**~~[commission]~~.

18 (3) **If federal or other grant funds become available to pay their salaries, the**  
 19 **executive director may appoint and employ other persons that may be deemed**  
 20 **necessary or desirable to accomplish the purposes of KRS 146.200 to 146.619.**  
 21 **The executive director shall determine the compensation, duties, and terms of**  
 22 **employment of these employees, and grant-funded, time-limited positions shall be**  
 23 **approved by the secretary as needed. Employees whose salaries are funded**  
 24 **through federal or other grant funds shall not be counted in any tally of**  
 25 **permanent employees made for employee cap or budgetary purposes.**

26 ➔Section 24. KRS 146.435 is amended to read as follows:

27 Representatives of such agencies, institutions, organizations or individuals as the

1 **executive director**~~[commission]~~ may determine may serve as advisors to the **executive**  
 2 **director**~~[commission]~~ with the privilege of discussion and debate. Such advisors may  
 3 receive such compensation as is deemed appropriate by the **executive**  
 4 **director**~~[commission. Nothing in this section shall be construed to prevent the members~~  
 5 ~~of the commission from meeting without the participation of advisors].~~

6 →Section 25. KRS 146.440 is amended to read as follows:

7 In order to secure for the people of the Commonwealth of Kentucky of present and future  
 8 generations the benefits of an environment having one or more of the characteristics of a  
 9 natural area, the **office**~~[commission]~~ is hereby empowered to acquire in the name of the  
 10 Commonwealth of Kentucky and to hold in trust for the benefit of the general public an  
 11 adequate system of **natural areas**~~[nature preserves]~~ in the manner herein set forth, and for  
 12 the following uses and purposes:

- 13 (1) For scientific research in such fields as, but not limited to, ecology, taxonomy,  
 14 genetics, forestry, pharmacology, agriculture, soil science, geology, paleontology,  
 15 ornithology, herpetology, mammalogy, biology, entomology, agronomy,  
 16 conservation, and all other natural sciences;
- 17 (2) For the teaching of biology, natural history, ecology, geology, conservation and  
 18 other related subjects;
- 19 (3) As habitats for plant and animal species and other natural objects;
- 20 (4) As reservoirs of natural materials;
- 21 (5) As places of natural interest and beauty;
- 22 (6) As living illustrations of our natural heritage wherein one may observe and  
 23 experience natural biotic and ecological systems of the earth and their processes;
- 24 (7) To promote understanding and appreciation of the aesthetic, cultural, scientific and  
 25 spiritual values of our unpolluted and unspoiled environment;
- 26 (8) For the preservation and protection of nature preserves against modification or  
 27 encroachment resulting from occupation, development or other use which would

1 destroy their natural or aesthetic conditions;

2 (9) As places where people may observe nature's web of life and our natural heritage,  
3 and as reminders of the vital human dependence upon unspoiled natural areas.

4 ➔Section 26. KRS 146.445 is amended to read as follows:

5 The office~~[commission]~~ and the cabinet shall coordinate the activities of the  
6 office~~[commission]~~ and those of the cabinet in an effective and practical manner,  
7 allocating those activities and functions pertaining to preservation and use of natural areas  
8 to the office~~[commission]~~.

9 ➔Section 27. KRS 146.450 is amended to read as follows:

10 To effectuate the purposes of KRS 146.410 to 146.530, the office~~[cabinet]~~ has the powers  
11 and duties enumerated as follows:

12 (1)~~[To provide administrative services, office facilities, and such other assistance as  
13 may be agreed upon by the cabinet and the commission;~~

14 (2)~~] To enforce rules~~~~[established by the commission]~~ pertaining to public use of and  
15 activities on nature preserves, and on any real property held by the  
16 office~~[commission]~~;

17 (2)~~[(3)] To acquire~~~~[, subject to the prior written approval of the commission,]~~ by gift,  
18 devise, purchase, grant, agreement, dedication, and transfer the fee simple title, or  
19 any lesser right or interest, in real property ***containing natural areas***, including but  
20 not limited to~~[,]~~ leasehold estates, easements, and licenses granting to the  
21 office~~[commission]~~ specified rights of use or licenses denying to the grantor  
22 specified rights of use, or both, and to dedicate the same to the system of nature  
23 preserves as provided in KRS 146.410 to 146.530;

24 (3)~~[(4)] To dedicate in the manner provided for in KRS 146.410 to 146.530 real  
25 property held by it as nature preserves;~~

26 (4)~~[(5)] To transfer from or to the office~~[commission]~~ real property or any interests or  
27 rights therein.~~

1           ➔Section 28. KRS 146.455 is amended to read as follows:

2 Funds available for use by the cabinet for land acquisition, or for other designated  
3 activities, if not otherwise restricted, may be allocated by the cabinet to the  
4 office~~[commission]~~ for land acquisition, or other herein authorized activities.

5           ➔Section 29. KRS 146.460 is amended to read as follows:

6 The office~~[commission]~~ shall establish and publish a public register of natural areas  
7 which shall include areas other than nature preserves considered by the  
8 office~~[commission]~~ to be particularly worthy of preservation for the public purposes of  
9 present and future scientific research, education, scenic and aesthetic enjoyment or which  
10 provide habitat and protection for plant and animal species and communities and other  
11 natural features. No natural area shall be construed to be unworthy of preservation  
12 because it is not included in the register. Publication of the register is notice to all public  
13 agencies that the registered natural areas are worthy of preservation.

14 No area so registered shall be a nature preserve unless and until it shall have been  
15 dedicated as provided for in KRS 146.410 to 146.530.

16           ➔Section 30. KRS 146.465 is amended to read as follows:

17 The office~~[commission]~~ is authorized and empowered for and on behalf of the  
18 Commonwealth of Kentucky:

19 (1) To accept and administer gifts, grants, devises and bequests of money, securities or  
20 property to be used by the office~~[commission]~~ for the purposes of KRS 146.200 to  
21 146.619~~[146.410 to 146.530]~~.

22 (2) To acquire natural areas by gift, devise, purchase or exchange, provided that any  
23 interest owned by the Commonwealth or by any subdivision thereof may be  
24 dedicated only by voluntary act of the agency having jurisdiction thereof.

25 (3) To acquire the fee simple interest or any one or more lesser estates, interests and  
26 rights therein, including, but not limited to, leasehold estates, easements, and  
27 licenses either granting the Commonwealth specified rights of use or licenses

1 denying to the grantor specified rights of use, or both. Lesser than fee simple  
2 estates, particularly scenic easements, should be sought in the establishment of trails  
3 or other narrow or elongated or extensive uses.

4 (4) For the purpose of protecting a nature preserve, adjoining land that is not otherwise  
5 suitable for dedication as part of the nature preserve may be dedicated as buffer area  
6 in the same manner as provided in KRS 146.410 to 146.530 for the dedication of a  
7 nature preserve. A dedicated buffer area shall have the same protection under KRS  
8 146.410 to 146.530 as a nature preserve.

9 (5) An estate, interest or right in a natural area may be dedicated by any agency of the  
10 Commonwealth having jurisdiction thereof, by any other unit of government within  
11 the state having jurisdiction thereof, and by private owners thereof in the same  
12 manner as the ordinary conveyance of land. A dedication shall be deemed effective,  
13 and a natural area shall become a nature preserve only upon the acceptance of the  
14 articles of dedication by the office~~commission~~. Articles of dedication shall be  
15 placed on public record in the proper place for recording deeds in the county or  
16 counties in which the area is located, and with the office~~commission~~ at its  
17 Frankfort office.

18 (6) Articles of dedication may contain restrictions relating to management, use,  
19 development, transfer, and public access, as well as such other provisions as may be  
20 necessary to further the purposes of KRS 146.410 to 146.530. Specifically, the  
21 donor, deviser or grantor of the preserve may prescribe the places where, and the  
22 means by which, the public may secure access to the preserve so as to protect the  
23 preserve from overuse and maintain the unencumbered private use of undedicated  
24 lands adjoining the preserve. The articles may likewise provide penalties and  
25 procedures to be applied in case of violation of their provisions. The articles may  
26 recognize and create reversionary rights, transfers upon conditions, and gifts. The  
27 articles may vary in provisions from one nature preserve to another in accordance

1 with differences in the characteristics and conditions of the areas involved, or for  
2 other reasons found necessary by the office[~~commission~~] and the landowner.

3 (7) Upon such terms and conditions as the office[~~commission~~] may determine, the  
4 office[~~commission~~] may enter into amendments of any articles of dedication upon a  
5 finding by the office[~~commission~~] that such amendments will not permit an  
6 impairment, disturbance, use or development of the area inconsistent with the  
7 purposes of the articles of dedication or of KRS 146.410 to 146.530; provided,  
8 however, that if the fee simple interest in the area is not held by the Commonwealth  
9 of Kentucky under KRS 146.410 to 146.530, no amendment shall be made without  
10 the written consent of the owner or owners of the other interests therein.

11 ➔Section 31. KRS 146.475 is amended to read as follows:

12 The fee simple estates, or lesser interests, or other contractual rights held as nature  
13 preserves are hereby declared to be held in trust, in the name of the Commonwealth, for  
14 those uses and purposes expressed in KRS 146.410 to 146.530 which are not prohibited  
15 by the articles of dedication, for the benefit of the people of the Commonwealth of  
16 Kentucky of present and future generations and are declared to be put to their highest,  
17 best and most important use for the public benefit. Said estates, interests, or rights held  
18 as nature preserves shall be managed and protected in the manner approved by, and  
19 subject to the rules and regulations established by the office[~~commission~~], and they shall  
20 not be taken by another public body through eminent domain or otherwise for any other  
21 use, except after a finding by the office[~~commission~~] of the existence of an imperative  
22 and unavoidable public necessity for such other public use. Except as may otherwise be  
23 provided in the articles of dedication, the office[~~commission~~] may grant or dispose of an  
24 estate, interest or right held in a nature preserve only after a finding by the  
25 office[~~commission~~] of the existence of an imperative and unavoidable public necessity  
26 for such grant or disposition; provided however, that where less than a fee simple interest  
27 has been dedicated, such disposition or grant shall also require the written consent of the

1 owner or owners of the other interests therein.

2 ➔Section 32. KRS 146.480 is amended to read as follows:

3 Before the office~~[commission]~~ shall make any findings of the existence of an imperative  
4 and unavoidable public necessity, or shall grant or dispose of any estate, interest or right  
5 in a nature preserve, or shall enter into any amendment of any articles of dedication, it  
6 shall give notice of such proposed action in accordance with Chapter 424 of the Kentucky  
7 Revised Statutes.

8 ➔Section 33. KRS 146.485 is amended to read as follows:

9 In furtherance of the purposes of KRS 146.410 to 146.530, the office~~[commission]~~ shall  
10 have the following additional powers and duties:

- 11 (1) To seek and approve the dedication of nature preserves as part of the system;
- 12 (2) To make and publish policies and rules, and to recommend to the secretary the  
13 promulgation of administrative regulations for the selection, acquisition,  
14 management, protection, and use of natural areas and nature preserves, and for the  
15 conduct of office~~[commission]~~ affairs;
- 16 (3) To cooperate with and to contract with any public body of this state, any public  
17 body of any other state, any private organization, any individual, and the federal  
18 government and its agencies;
- 19 (4) To purchase land from a willing seller without the use of the powers of  
20 condemnation or eminent domain, which said powers are expressly denied to the  
21 office~~[commission]~~;
- 22 (5) To make reasonable investigations as to the ownership of any lands which it judges  
23 may be appropriate for acquisition;
- 24 (6) To maintain a state registry of natural areas, an inventory of natural types, flora, and  
25 fauna, and other records of natural areas and nature preserves within the  
26 Commonwealth;
- 27 (7) To promote the coordination of all departments, divisions and branches of state,

- 1 county and city governments within the Commonwealth which relate to nature  
2 preserves;
- 3 (8) To study the operation of all laws, rules, regulations, orders, and governmental  
4 policies affecting conservation of natural resources pertaining to natural areas, and  
5 to recommend to the Governor, and to the General Assembly, new legislation, rules,  
6 regulations, orders and policies in the interest of correcting natural resource  
7 conservation problems pertaining to natural areas and nature preserves;
- 8 (9) To provide a central clearing house of information for environmental and  
9 conservation matters and to promote educational programs pertaining to natural  
10 areas and nature preserves;
- 11 (10) To conduct research, investigations, public hearings, and interpretative programs  
12 and to publish and disseminate information to the general public pertaining to  
13 natural areas and nature preserves;
- 14 (11) To supervise the protection, management, and use of nature preserves and to  
15 enforce and administer rules and regulations pertaining thereto;
- 16 (12) To promote, study, investigate, recommend, encourage, advise and assist in the  
17 preservation, protection, and management of natural areas;
- 18 (13) To report to the Governor and General Assembly on proposed legislation, policies,  
19 regulations, or actions, public or private, which may significantly affect the quality  
20 of the natural ecology or the human environment in the Commonwealth. Such  
21 report shall include an evaluation of environmental and ecological effects, and shall  
22 compare any adverse effects of the proposed action against possible social benefits.  
23 The report shall describe and recommend appropriate alternatives, which avoid  
24 significant adverse effects on the quality of the natural ecology of natural areas;
- 25 (14) To submit to the Governor and members of the General Assembly, a report on or  
26 before October 1 of each even-numbered year~~[January 15, 1977, and by the same~~  
27 ~~date each second year thereafter]~~, detailing the condition of each nature preserve in

1 the system, and each registered natural area, and make other reports and  
2 recommendations as it may deem advisable.

3 ➔Section 34. KRS 146.490 is amended to read as follows:

4 An owner of an area which is dedicated as a nature preserve may retain custody thereof,  
5 or may designate a custodian, subject to the rules and regulations of the  
6 office~~[commission]~~. If the owner or custodian declines, is unable, or fails to administer  
7 and manage the nature preserve in accordance with the articles of dedication, the  
8 office~~[commission]~~ shall undertake such custodial functions as may be necessary for the  
9 protection, maintenance, and use of the nature preserve until the disability is removed.  
10 Whenever feasible, and consistent with the articles of dedication, the office~~[commission]~~  
11 shall vest custody of a nature preserve in the former owner, a private organization or an  
12 individual.

13 ➔Section 35. KRS 146.495 is amended to read as follows:

14 The office~~[commission]~~ may, with the approval of the cabinet, transfer title, lease, or  
15 assign custody or other interest or right therein, or contract for the custody, maintenance,  
16 and operation of a nature preserve or other real property with another public agency or  
17 private organization. Such transfer, lease, assignment or contract must be consistent with  
18 the purposes of KRS 146.410 to 146.530.

19 ➔Section 36. KRS 146.507 is amended to read as follows:

20 Where the acquisition or dedication of less than a fee simple estate in land is proposed,  
21 and the mineral estate is severed from the surface, the consent of the owner of the mineral  
22 estate shall be provided to the office~~[commission]~~ prior to approval of the acquisition or  
23 dedication.

24 ➔Section 37. KRS 146.510 is amended to read as follows:

25 (1) Nothing contained in KRS 146.410 to 146.530 shall be construed as interfering with  
26 the purposes stated in the establishment of any national, state or local park,  
27 preserve, wildlife refuge, wildlife management area, forest or other similar area or

1 the proper management and development thereof, except that any agency  
2 administering a natural area dedicated as a nature preserve under the provisions of  
3 KRS 146.410 to 146.530 shall be responsible for preserving the character of the  
4 natural area in accordance with the articles of dedication and the applicable rules  
5 and regulations with respect thereto established by the office~~[commission]~~ under  
6 KRS 146.410 to 146.530.

7 (2) Neither the dedication of a natural area as a nature preserve, nor any action taken by  
8 the office~~[commission]~~ under any of the provisions of KRS 146.410 to 146.530,  
9 shall void or replace any protective status under law which the natural area would  
10 have were it not a nature preserve, and the protective provisions of KRS 146.410 to  
11 146.530 shall be supplemental thereto.

12 ➔Section 38. KRS 146.515 is amended to read as follows:

13 (1) All departments, agencies, officers and employees of the Commonwealth shall  
14 cooperate with the office~~[commission]~~ and its employees in carrying out its  
15 functions under KRS 146.410 to 146.530.

16 (2) The executive director~~[-duly appointed by the commission]~~ or any employee  
17 authorized by the executive director shall, for purposes of KRS 146.410 to 146.530,  
18 have complete and timely access to all records of every agency, division or  
19 department of state, county or city government within the Commonwealth. Nothing  
20 in this section shall be construed to permit the office~~[commission]~~ to disclose those  
21 matters which by law are required to be kept confidential.

22 ➔Section 39. KRS 146.520 is amended to read as follows:

23 A fund for the purpose of carrying out the provisions of KRS 146.410 to 146.530 is  
24 hereby created and is designated the "Kentucky Nature Preserves Fund" and shall consist  
25 of all revenues derived from privileges, concessions, and contracts granted by the  
26 office~~[commission]~~, and all moneys received by it from gifts, contributions, donations  
27 and grants from governmental or private sources, and moneys appropriated from general

1 funds of the state for the purposes of KRS 146.410 to 146.530. The Kentucky nature  
2 preserves fund shall be disbursed by the office~~[commission]~~, for administration and other  
3 expenses and for all purposes provided by KRS 146.410 to 146.530.

4 ➔Section 40. KRS 146.525 is amended to read as follows:

5 ~~[Upon the commission's request,]~~It shall be the duty of the *cabinet's Office of Legal*  
6 *Services, or upon the secretary's request*~~[Office of General Counsel of the Department]~~  
7 of the Attorney General, to bring any appropriate legal action in the name of the  
8 Commonwealth of Kentucky, including but not limited to, actions for restraining orders,  
9 or for temporary or permanent injunctions for the prevention or correction of conditions  
10 which constitute a violation of KRS *146.200 to 146.619*~~[146.410 to 146.530]~~ or the  
11 provisions of the articles of dedication.

12 ➔Section 41. KRS 146.530 is amended to read as follows:

13 Administrative appeals from any order or final determination by the office~~[commission]~~  
14 under KRS 146.410 to 146.530 shall be made in accordance with procedures established  
15 by regulations of the office~~[commission]~~.

16 ➔Section 42. KRS 146.550 is amended to read as follows:

17 As used in KRS 146.550 to 146.570:

- 18 (1) "Wetlands" means land that has a predominance of hydric soils and is inundated or  
19 saturated by surface or groundwater at a frequency and duration sufficient to  
20 support, and that under normal circumstances does support, a prevalence of  
21 hydrophytic vegetation typically adapted for life in saturated soil conditions.
- 22 (2) "Hydric soils" means soils that, in their undrained condition, are saturated, flooded,  
23 or ponded long enough during the growing season to develop an anaerobic  
24 condition that supports the growth and regeneration of hydrophytic vegetation.
- 25 (3) "Hydrophytic vegetation" means a plant growing in water or a substrate that is at  
26 least periodically deficient of oxygen during the growing season as a result of  
27 excess water content.

1 **(4) "Office" means the Office of Kentucky Nature Preserves.**

2 **(5) "Cabinet" means the Energy and Environment Cabinet.**

3 ➔Section 43. KRS 146.560 is amended to read as follows:

- 4 (1) There is hereby established a Kentucky Heritage Land Conservation Fund Board,  
 5 referred to hereafter as "the board", which shall administer the Kentucky Heritage  
 6 Land Conservation fund established in KRS 146.570 and shall review and approve  
 7 all grants payable from the fund. The board shall consist of the following members:
- 8 (a) The commissioner of the Department of Parks or a designee;
- 9 (b) The executive director of the Office of Kentucky Nature Preserves~~[~~  
 10 ~~Commission]~~ or a designee;
- 11 (c) The commissioner of the Department for Natural Resources or a designee;
- 12 (d) The commissioner of the Department of Fish and Wildlife Resources or a  
 13 designee;
- 14 ~~(e)[The chairperson of the Kentucky Environmental Education Council or a~~  
 15 ~~designee;~~
- 16 ~~(f)One (1) person appointed by the Governor, from two (2) persons nominated~~  
 17 ~~by the Kentucky Chapter of the Nature Conservancy;~~
- 18 ~~(g)~~ One (1) person appointed by the Governor, from two (2) persons nominated  
 19 by the League of Kentucky Sportsmen;
- 20 ~~(f)(h)~~ One (1) person~~[Two (2) persons]~~ appointed by the Governor, from two  
 21 (2)~~[four (4)]~~ persons recognized for their expertise in natural resource issues  
 22 and nominated by the Kentucky Academy of Sciences;
- 23 ~~(g)(i)~~ One (1) person appointed by the Governor, from three (3) persons  
 24 nominated, one (1) by the Kentucky Farm Bureau, one (1) by the  
 25 Commissioner of the Department of Agriculture, and one (1) by the Kentucky  
 26 Association of Conservation Districts;
- 27 ~~(h)(j)~~ One (1) person appointed by the Governor, from four (4)~~[three (3)]~~

1 persons nominated, one (1) by the Kentucky Audubon Council, one (1) by the  
 2 Cumberland Chapter of the Sierra Club, **one (1) by the Kentucky Chapter of**  
 3 **the Nature Conservancy**, and one (1) by the Kentucky Conservation  
 4 Committee; and

5 ~~(i)(k)~~ One (1) person appointed by the Governor with at least five (5) years of  
 6 experience in natural resources land acquisition.

7 The board shall receive staff support from the **Office of Kentucky Nature**  
 8 **Preserves. Board members shall serve terms of three (3) years and they** ~~Energy~~  
 9 ~~and Environment Cabinet and the Department of Fish and Wildlife Resources. Of~~  
 10 ~~the seven (7) members identified in paragraphs (f) to (k) of this subsection and first~~  
 11 ~~appointed, two (2) shall continue in office for terms of one (1) year, two (2) for~~  
 12 ~~terms of two (2) years, and three (3) for terms of three (3) years, as the Governor~~  
 13 ~~designates. At the expiration of the original terms and for all succeeding terms, the~~  
 14 ~~Governor shall appoint a successor to the board for a term of three (3) years in each~~  
 15 ~~case. Members~~ may be reappointed. A vacancy in an unexpired term shall be filled  
 16 for the unexpired portion of the term in the same manner as the original  
 17 appointment to that term. The Governor shall appoint a chairperson for the board,  
 18 **selected from seated members of the board.**

19 (2) The ~~cabinet may~~ ~~board shall~~ promulgate **upon recommendation of the board** in  
 20 accordance with the provisions of KRS Chapter 13A administrative regulations as  
 21 are deemed necessary for application for funds from the agencies and private,  
 22 nonprofit land trust organizations identified in KRS 146.570, review and approval  
 23 of proposed projects, and review and approval of grants. Grants shall be made in  
 24 amounts, for purposes, and to the agencies and private, nonprofit land trust  
 25 organizations identified in KRS 146.570 as meet the priorities for acquisition which  
 26 are:

27 (a) Natural areas that possess unique features such as habitat for rare and

- 1           endangered species;
- 2           (b) Areas important to migratory birds;
- 3           (c) Areas that perform important natural functions that are subject to alteration or
- 4           loss; or
- 5           (d) Areas to be preserved in their natural state for public use, outdoor recreation
- 6           and education.

7           The *cabinet may*~~[board shall]~~ promulgate administrative regulations, *upon*

8           *recommendation of the board and* in accordance with the provisions of KRS

9           Chapter 13A<sub>2</sub> on acquisition based on these priorities and property costs seeking to

10          maximize the greatest public benefit by taking advantage of those priority areas

11          available below fair market value and where public or private funds are available on

12          a matching basis. Additionally, private, nonprofit land trust organizations, in order

13          to be eligible to receive grants, shall match dollar-for-dollar any funds approved by

14          the board. The board shall expend the whole or any part of the principal and interest

15          as needed. KRS 146.550 to 146.570 shall not allow the use of condemnation powers

16          and shall only allow acquisition of land from willing sellers.

17          ➔Section 44. KRS 146.570 is amended to read as follows:

- 18       (1) There is hereby established in the State Treasury a fund entitled "Kentucky Heritage
- 19       Land Conservation fund." The fund shall primarily receive state appropriations,
- 20       gifts, grants, federal funds, and tax receipts. The fund shall be disbursed by the State
- 21       Treasurer upon the warrant of the secretary of the Finance and Administration
- 22       Cabinet. Moneys in the fund not expended at the end of a fiscal year shall be carried
- 23       forward to the next fiscal year, and the fund shall not lapse. Moneys in the fund
- 24       shall be invested in accordance with administrative regulations developed by the
- 25       State Investment Commission in accordance with KRS 42.525. Interest earnings
- 26       shall accrue to the fund.
- 27       (2) The fund shall be attached for administrative, budgeting, and capital planning and

1 reporting purposes to the Office of Kentucky Nature Preserves~~[Energy and~~  
2 ~~Environment Cabinet]~~. Land acquisitions shall be authorized by the General  
3 Assembly and reported to the Capital Projects and Bond Oversight Committee in  
4 accordance with KRS 45.750 to 45.800. Allocation of moneys as approved by the  
5 board for management of the lands shall be appropriated to each separate agency as  
6 part of its operating budget.

7 (3) Moneys in the fund shall be used exclusively for the purposes of acquisition and  
8 management of lands as defined in KRS 146.560 and for administration of the  
9 office. Each recipient of moneys shall develop and implement a resource  
10 management plan for each tract acquired,~~[except a resource management plan for~~  
11 ~~properties adjacent to a state park shall be developed and managed by the~~  
12 ~~Department of Parks,]~~ and shall allocate some~~[at least ten percent (10%) of]~~ moneys  
13 received for management of lands acquired as directed by the board. Lands  
14 acquired shall be maintained in perpetuity for the purposes set out in KRS 146.560.

15 (4) Moneys in the fund shall be allocated as follows:

16 (a) The Department of Parks shall receive ten percent (10%);

17 (b) The Department of Fish and Wildlife Resources shall receive ten percent  
18 (10%);

19 (c) The Energy and Environment Cabinet, Division of Forestry, shall receive ten  
20 percent (10%);

21 (d) Ten percent (10%) shall be allocated for the Wild Rivers System~~[wild rivers~~  
22 ~~corridors]~~ established by the Kentucky Wild Rivers Act, KRS 146.200 to  
23 146.360, and any administrative regulations promulgated pursuant thereto;

24 (e) The Office of Kentucky Nature Preserves~~[Commission]~~ shall receive ten  
25 percent (10%); and

26 (f) The board shall receive the remaining fifty percent (50%), for allocation to  
27 private, nonprofit land trust organizations, state agencies, local governments,

1 and state colleges and universities. Any funds expended under this paragraph  
2 to private, nonprofit land trust organizations shall be matched dollar-for-dollar  
3 as required in KRS 146.560(2).

4 ➔Section 45. KRS 146.605 is amended to read as follows:

5 As used in KRS 146.600 to 146.619:

- 6 (1) **"Office"**~~["Commission"]~~ means the **Office of** Kentucky~~[State]~~ Nature Preserves~~[~~  
7 ~~Commission]~~, created by KRS **146.430**~~[146.425]~~.
- 8 (2) "Endangered species" means any species of plant that is in danger of extirpation  
9 throughout all or a significant portion of its range within the Commonwealth, or any  
10 plant species determined to be an "endangered species" pursuant to the Endangered  
11 Species Act.
- 12 (3) "Endangered Species Act" means the Endangered Species Act of 1973, Public Law  
13 93-205 (87 Stat. 884), as amended.
- 14 (4) "Plant" means any member of the plant kingdom, including seeds, roots, and other  
15 parts thereof.
- 16 (5) "Species" includes any species, subspecies, or variety of plant.
- 17 (6) "Threatened species" means any species of plant likely to become an endangered  
18 species within the foreseeable future throughout all or a significant portion of its  
19 range within the state, or any species of plant determined to be a "threatened  
20 species" pursuant to the Endangered Species Act.
- 21 **(7) "Cabinet" means the Energy and Environment Cabinet.**

22 ➔Section 46. KRS 146.610 is amended to read as follows:

- 23 (1) The **office**~~[commission]~~ may conduct investigations, with the permission of the  
24 landowner, on any species of plants indigenous to the Commonwealth necessary to  
25 develop information relating to population, distribution, habitat needs, limiting  
26 factors, and other biological and ecological data, and to determine protective  
27 measures and requirements necessary for its survival.

- 1 (2) (a) Any plant species identified as endangered or threatened by the Endangered  
2 Species Act shall be automatically and immediately considered in a similar  
3 category under KRS 146.600 to 146.619. The office~~[commission]~~ may  
4 promulgate administrative regulations, upon recommendation of the office,  
5 identifying any other species of plant within the state as an endangered or  
6 threatened species as a result of any one (1) of the following factors:
- 7 1. The present or threatened destruction, modification, or curtailment of its  
8 habitat or range;
  - 9 2. Overutilization for commercial, recreational, scientific, educational, or  
10 private purposes;
  - 11 3. Disease, predation, or vandalism;
  - 12 4. The inadequacy of existing regulatory mechanisms affecting the  
13 continued existence within the state; or
  - 14 5. Other factors affecting its continued existence within the state.
- 15 (b) The cabinet~~[commission]~~ may, upon recommendation of the office,  
16 promulgate administrative regulations setting forth criteria for identifying and  
17 designating species of plants native to Kentucky which are in danger of  
18 extirpation within the Commonwealth or threatened with becoming  
19 endangered in the Commonwealth. The cabinet~~[commission]~~ may, upon  
20 recommendation of the office, promulgate administrative regulations that  
21 identify species that it determines to be endangered or threatened. These lists  
22 shall identify the common and scientific names of each species. The lists shall  
23 include all plant species native to Kentucky which are listed as endangered or  
24 threatened on the "United States List of Endangered and Threatened Plants"  
25 pursuant to the Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. secs.  
26 1531-1543, as amended. The lists may also include species listed in the  
27 appendices of the "Convention on International Trade in Endangered Species,"

1 signed March 3, 1973, as Ex. Doc. H, 93rd Congress, 1st Session. Further, the  
2 office~~[commission]~~ may provide for public education purposes lists of plant  
3 species which may become threatened in the future through habitat loss,  
4 commercial exploitation, or other means, or which are presumed to be  
5 extirpated within the Commonwealth. All lists shall be updated at least every  
6 four (4) years.

7 (3) Locational and population health information relating to endangered or threatened  
8 and other plant species shall be kept in the office's~~[commission's]~~ natural heritage  
9 database. Information to be considered when adopting, amending, or rescinding  
10 endangered or threatened plant species lists as required in this section shall be  
11 recorded in the natural heritage database prior to use in determining the status of a  
12 plant species.

13 (4) The office~~[commission]~~ shall present to the Governor and the General Assembly a  
14 report on or before October 1 every four (4) years~~[, starting on or about January 10,~~  
15 ~~1998,]~~ on the conditions and needs of the Commonwealth's endangered or  
16 threatened plant species.

17 (5) In carrying out programs authorized by KRS 146.600 to 146.619, the  
18 office~~[commission]~~ may enter into agreements or contracts with federal agencies,  
19 other states, agencies or political subdivisions of the Commonwealth, or with  
20 individuals or private organizations for administration and management of any  
21 program established under KRS 146.600 to 146.619 or utilized for the protection of  
22 endangered or threatened plant species.

23 ➔Section 47. KRS 146.990 is amended to read as follows:

24 (1) Any person, corporation, city, county or other governmental subdivision who  
25 violates any of the provisions of KRS 146.200 to 146.360 shall be liable to a civil  
26 penalty of not more than one thousand dollars (\$1,000) for said violation and in  
27 addition may be enjoined from continuing said violation. Each day upon which such

1 violation occurs or continues shall constitute a separate offense.

2 (2) Any person who trespasses on private land within the boundary of a designated wild  
3 river shall be guilty of a Class B misdemeanor, and upon conviction shall be subject  
4 to a fine not to exceed five thousand dollars (\$5,000).

5 (3) Violations of KRS 146.410 to 146.530 or of any rule or regulation adopted and  
6 published by the ~~office~~~~commission~~ pursuant to the provisions of KRS 146.410 to  
7 146.530, shall be subject to the penalties and sanctions presently provided for in  
8 KRS Chapter 224 or as may be amended.

9 ➔Section 48. KRS 149.346 is amended to read as follows:

10 (1) If the cabinet has evidence that a violation of KRS 149.342(1) or 149.344(11) has  
11 occurred, or has deemed a logger or operator to be a bad actor under KRS  
12 149.344(8), the cabinet shall serve written notice of the determination and the  
13 provision alleged to have been violated, and the cabinet shall require the person  
14 complained against to answer the charges at an administrative hearing to be held not  
15 less than twenty-one (21) days after the date of the notice, unless the person  
16 complained against waives the twenty-one (21) day period.

17 (2) Any person not previously heard who considers himself aggrieved by any  
18 determination of the cabinet under KRS 149.330 to 149.355 may file a petition  
19 alleging that the determination is contrary to law or fact and is injurious to him,  
20 citing the grounds and reasons therefor, and demanding an administrative hearing.  
21 Unless the cabinet considers the petition frivolous, it shall schedule an  
22 administrative hearing before the cabinet not less than ninety (90) days after the date  
23 of the notice, unless the person complained against waives the ninety (90) day  
24 period, except that hearings requested under KRS 149.344(5) and (6) shall be held  
25 within five (5) working days of receipt of a petition. The right to demand a hearing  
26 under this subsection shall be limited to a period of thirty (30) days after the  
27 petitioner has had actual notice of the determination complained of, or could have

1 had notice. The cabinet shall be represented at the administrative hearing by the  
2 Office of Legal Services~~[General Counsel]~~.

3 (3) All hearings under KRS 149.330 to 149.355 shall be conducted under KRS 224.10-  
4 440. Appeals may be taken from all final orders under KRS 224.10-470.

5 ➔Section 49. KRS 149.348 is amended to read as follows:

6 (1) Any operator or logger who is deemed by the cabinet to be a bad actor under KRS  
7 149.344(8) or who violates KRS 149.342(1) or 149.344(11) may, after an  
8 opportunity for an administrative hearing, be assessed a civil penalty not to exceed  
9 one thousand dollars (\$1,000) for each violation. In determining the amount of the  
10 penalty, consideration shall be given to the operator's or logger's history of  
11 noncompliance; the seriousness of the violation and any damage caused, including  
12 any irreparable harm to the environment or hazard to public health or safety or the  
13 health and safety of animals, fish, or aquatic life; the degree of fault and whether the  
14 conduct was intentional or negligent; and the demonstrated good faith in remedying  
15 the pollution. The penalties shall be recoverable in an action brought in the name of  
16 the Commonwealth of Kentucky by the cabinet's Office of Legal Services~~[General  
17 Counsel]~~. All sums recovered shall be deposited in the Forest Stewardship  
18 Incentives Fund. The Circuit Court in the county in which the violation occurred  
19 shall have concurrent jurisdiction and venue of all civil and injunctive actions  
20 instituted by the cabinet for the enforcement of the provisions of KRS 149.330 to  
21 149.355 or the orders and administrative regulations promulgated by the cabinet.

22 (2) Notwithstanding KRS Chapters 271B to 275 or any other provision of law to the  
23 contrary, any director, officer, or agent of an operator or logger doing business as a  
24 partnership, corporation, association, society, joint stock company, firm, company,  
25 or business organization shall be personally liable, jointly and severally, for the civil  
26 penalties incurred by the operator or logger under this section.

27 ➔Section 50. KRS 151.720 is amended to read as follows:

- 1 The Kentucky River Authority is authorized and empowered to:
- 2 (1) Construct, reconstruct, provide for the major maintenance, or repair the locks and  
3 dams on the Kentucky River and all real and personal property pertaining thereto, as  
4 well as maintain the channel;
  - 5 (2) Acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or  
6 otherwise, the fee simple title to or any acceptable lesser interest in any real or  
7 personal property and by lease or other conveyance, contract for the right to use and  
8 occupy any real or personal property selected in the discretion of the authority as  
9 constituting necessary, desirable, or acceptable sites to fulfill its statutory authority  
10 and power;
  - 11 (3) Lease its real or personal property to other state agencies, political subdivisions of  
12 the Commonwealth, corporations, partnerships, associations, foundations, or  
13 persons as the authority deems necessary to carry out the purposes of this section;
  - 14 (4) Sell or otherwise dispose of its real or personal property in accordance with KRS  
15 56.463 and 45A.045;
  - 16 (5) Collect water use fees from all facilities using water from the Kentucky River basin,  
17 except those facilities using water primarily for agricultural purposes. Facilities  
18 charged such a fee may pass on all or any part of the fee;
  - 19 (6) Issue revenue bonds in accordance with KRS 151.730;
  - 20 (7) Employ persons to carry out the authority's responsibilities with revenue from the  
21 water use fees, including an executive director who shall serve at the pleasure of the  
22 authority;
  - 23 (8) Contract for services with other state agencies, political subdivisions of the  
24 Commonwealth, corporations, partnerships, associations, foundations, or persons to  
25 perform its duties;
  - 26 (9) Promulgate administrative regulations providing for clean water, which shall not be  
27 less stringent than the state and federal regulations for clean water;

- 1 (10) Exercise all other powers necessary to perform its public purpose to implement and  
2 enforce the plans developed by the authority pursuant to this section and KRS  
3 151.727 and 151.728, and to enforce administrative regulations promulgated by the  
4 authority. The long-range water resource plan and drought response plan shall be  
5 implemented for the basin upon the direction of the authority;
- 6 (11) Develop comprehensive plans for the management of the Kentucky River within the  
7 basin, including a long-range water resource plan and a drought response plan. Each  
8 county within the basin shall develop a long-range water resource plan and submit it  
9 to the authority. The authority, after consultation with the Energy and Environment  
10 Cabinet, shall develop a unified long-range water resource plan for the basin. The  
11 unified long-range water resource plan shall be implemented over short-range and  
12 long-range time periods. The short-range plan shall be for a period of six (6) years  
13 and the long-range plan shall be for a period of twenty (20) years. The authority  
14 shall conduct a public hearing on the plan prior to its adoption and amend the plan  
15 as appropriate based on the comments received. The Energy and Environment  
16 Cabinet shall review the draft unified plan and provide comment during the public  
17 comment period concerning the consistency of the plan with the state requirements  
18 under KRS Chapters 224 and 151. A drought response plan for the basin shall be  
19 developed by the authority and shall be coordinated with the Energy and  
20 Environment Cabinet to assure consistency with KRS Chapters 224 and 151, and  
21 this plan shall be implemented for the basin upon the direction of the authority;
- 22 (12) Develop and promote a plan for the protection and use of groundwater within the  
23 basin. Administrative regulations may be promulgated implementing the plan, and  
24 these regulations shall not be less stringent than state and federal regulations  
25 protecting groundwater;
- 26 (13) Promote private investment in the installation of hydroelectric generating units on  
27 all existing constructed and reconstructed Kentucky River dams under the

- 1 jurisdiction of the authority, by developing a standard lease, establishing reasonable  
2 financial responsibility requirements, verifying that the proposed installation of the  
3 hydroelectric unit will not adversely affect the structural integrity of the dam, and  
4 adopting a schedule of reasonable fees for water used in the generation of  
5 hydroelectric power;
- 6 (14) Develop recreational areas within the basin. These recreational areas may be  
7 operated and funded by the state Department of Parks, Office of Kentucky ~~State~~  
8 Nature Preserves ~~Commission~~, or other governmental entity as specifically  
9 authorized or permitted within the biennial executive budget. There is hereby  
10 created the Kentucky River Park to be located as determined by the authority;
- 11 (15) Utilize funds provided for recreational purposes within the biennial executive  
12 budget for major or minor maintenance if the authority certifies to the secretary of  
13 the Finance and Administration Cabinet that a significant need exists for the repairs  
14 and no other funds are available for the maintenance;
- 15 (16) Coordinate the Kentucky River basin water resources activities among state  
16 agencies;
- 17 (17) Report quarterly on all of its activities to the legislative Committee on  
18 Appropriations and Revenue;
- 19 (18) Receive reports from state agencies on litigation concerning the Kentucky River,  
20 which agencies are hereby directed to report to the authority;
- 21 (19) Credit to the authority any income derived from the interest earned on the  
22 investment of the water use fees collected, which shall be available for the  
23 authority's expenditure; and
- 24 (20) Accomplish the watershed management mission of the authority, which is to fulfill  
25 the provisions of this section for the Kentucky River basin, the boundary of which  
26 shall be defined by a hydrologic map promulgated in an administrative regulation.
- 27 ➔Section 51. KRS 152.712 is amended to read as follows:

- 1 (1) The Office of Energy Policy~~[Department for Energy Development and~~  
2 ~~Independence]~~ in the Energy and Environment Cabinet shall:
- 3 (a) Oversee the implementation of Kentucky's comprehensive energy strategy;
- 4 (b) Provide leadership to enhance the benefits of energy efficiency and alternative  
5 energy through supporting awareness, technology development, energy  
6 preparedness, partnerships, and resource development;
- 7 (c) Enhance the economic opportunities and benefits to Kentucky citizens and  
8 industry through expansion of current markets and the development of market  
9 opportunities for Kentucky coal, natural gas, petroleum, oil shale, tar sands,  
10 liquid and gaseous fuels from coal, and chemicals from coal;
- 11 (d) To the extent funding is available, administer grant programs to support  
12 energy-related research, development, and demonstration, including the  
13 support of multistate cooperative regional partnerships and research  
14 initiatives;
- 15 (e) Develop and implement programs for the development, conservation, and  
16 utilization of energy in a manner to meet essential human needs while  
17 maintaining the Kentucky economy at the highest feasible level. The programs  
18 shall include:
- 19 1. Central access for collection, maintenance, and analysis of data and  
20 information on all forms of energy supply, demand, conservation, and  
21 related subjects;
- 22 2. Formulation of a contingency plan to address any energy shortage which  
23 may occur from time to time. The contingency plan shall relate to the  
24 curtailment, allocation, planning, and management of all forms of  
25 energy;
- 26 3. Development and implementation of major energy conservation  
27 programs involving all sectors of the Kentucky economy, including

- 1 energy audits of educational facilities and state-owned buildings; and
- 2 4. Provision for the application of appropriate technologies with regard to
- 3 alternative energy development, including the development of solar and
- 4 other renewable resources and small-scale hydroelectric plants, and
- 5 promotion, when feasible, of the production of energy from other
- 6 resources such as solid waste and biomass;
- 7 (f) Provide technical assistance to the Finance and Administration Cabinet in
- 8 implementing the Energy Efficiency in Government Buildings Program;
- 9 (g) Enter into agreements, administer grant programs, and serve as a liaison with
- 10 the federal government and other states in matters relating to energy; and
- 11 (h) Participate in the review of applications and, upon request of the authority,
- 12 assist the Kentucky Economic Development Finance Authority in monitoring
- 13 tax incentive agreements as provided in Subchapter 27 of KRS Chapter 154.
- 14 (2) The department may establish reasonable application fees to offset costs associated
- 15 with reviewing and processing applications, including costs associated with hiring
- 16 outside consultants.
- 17 (3) The department is encouraged to use state funding available to it as a match for
- 18 federal or private funding to increase the resources available to support energy
- 19 research and development.
- 20 (4) The department is encouraged to explore and develop regional partnerships and
- 21 cooperative research initiatives with other states and governmental entities to
- 22 enhance resources available for energy research and development.
- 23 ➔Section 52. KRS 152.713 is amended to read as follows:
- 24 (1) For purposes of this section, "renewable energy" has the same meaning as in KRS
- 25 154.20-400.
- 26 (2) The Center for Renewable Energy Research and Environmental Stewardship is
- 27 hereby created.

- 1 (3) The Center for Renewable Energy Research and Environmental Stewardship shall:
- 2 (a) Provide leadership, research, support, and policy development in renewable
- 3 energy;
- 4 (b) Advance the goal of renewable energy;
- 5 (c) Promote technologies, practices, and programs that increase efficiency in
- 6 energy utilization in homes, businesses, and public buildings;
- 7 (d) Emphasize energy policies that would result in cost-conscious, responsible
- 8 development of Kentucky's energy resources and a commitment to
- 9 environmental quality;
- 10 (e) Promote partnerships among the state's postsecondary education institutions,
- 11 private industry, and nonprofit organizations to actively pursue federal
- 12 research and development resources that are dedicated to renewable energy;
- 13 (f) Promote the continued development of public-private partnerships dedicated
- 14 to promoting energy efficiency through education and outreach;
- 15 (g) Establish research priorities with approval of the board of directors created in
- 16 subsection (4) of this section, relating to renewable energy, and develop
- 17 procedures and processes for awarding research grants to eligible recipients as
- 18 defined by the board and to the extent that funding is available;
- 19 (h) Collaborate with the Office of Energy Policy~~Department for Energy~~
- 20 ~~Development and Independence~~ to avoid duplication of efforts, provide
- 21 appropriate data and information, and support the implementation of
- 22 Kentucky's comprehensive energy strategy; and
- 23 (i) Carry out other activities to further the efficient and environmentally
- 24 responsible use of renewable energy.
- 25 (4) (a) There is hereby created a governing board of directors to provide policy
- 26 direction, establish a strategic research agenda and operating policies, and
- 27 provide financial and operational oversight for the Center for Renewable

1 Energy Research and Environmental Stewardship. The initial board shall be  
2 appointed within sixty (60) days following July 15, 2008.

3 (b) The board shall consist of thirteen (13) members:

- 4 1. One (1) member to represent the Office of Energy Policy~~Department~~  
5 ~~for Energy Development and Independence~~ as designated by its  
6 executive director~~commissioner~~;
- 7 2. Three (3) members representing postsecondary education interests who  
8 shall be appointed by the Governor;
- 9 3. One (1) member to be designated by the governing body of the Kentucky  
10 Science and Technology Corporation;
- 11 4. One (1) member from an energy conservation organization who shall be  
12 appointed by the Governor;
- 13 5. The secretary of the Economic Development Cabinet or the secretary's  
14 designee;
- 15 6. One (1) member who shall be a recognized consumer advocate to be  
16 appointed by the Governor;
- 17 7. Three (3) members to represent companies that are focused on  
18 renewable energy who shall be appointed by the Governor;
- 19 8. One (1) member who shall represent environmental interests to be  
20 appointed by the Governor; and
- 21 9. One (1) member who shall be selected to represent local government  
22 interests to be appointed by the Governor.

23 (c) The members appointed by the Governor shall serve two (2) year terms and  
24 may be reappointed. The members representing specific agencies shall serve  
25 for as long as the respective agencies determine appropriate.

26 (5) The board shall:

- 27 (a) Adopt operating procedures, including a meeting schedule;

- 1 (b) Meet at least quarterly;
- 2 (c) Select a chair and co-chair annually who may be reelected, not to exceed three
- 3 (3) consecutive terms;
- 4 (d) Establish working groups or subcommittees of the board as the board
- 5 determines is needed;
- 6 (e) Establish qualifications and job descriptions, set the compensation and
- 7 benefits, and employ staff as it determines necessary to carry out its
- 8 responsibilities under this section; and
- 9 (f) Provide an annual program and financial report to the Legislative Research
- 10 Commission within ninety (90) days of the close of each fiscal year.

11 ➔Section 53. KRS 152.714 is amended to read as follows:

12 From a list of potential sites developed by the Office of Energy Policy~~[Department for~~  
13 ~~Energy Development and Independence]~~ and suitable for development of alternative fuel  
14 facilities, gasification facilities, or renewable energy facilities as defined in KRS 154.27-  
15 010, the Office of Energy Policy~~[Department for Energy Development and~~  
16 ~~Independence]~~ may expend state funds for preliminary environmental and baseline  
17 assessments, inventories, and other activities on or for the potential sites in furtherance of  
18 environmental or other permitting required for the development of an eligible project.

19 ➔Section 54. KRS 152.720 is amended to read as follows:

20 To ensure that Kentucky will lead the states in securing the energy independence of the  
21 United States and will consequently benefit from economic growth and stabilization of  
22 the Commonwealth's coal industry and agriculture, the Office of Energy  
23 Policy~~[Department for Energy Development and Independence]~~ shall develop and  
24 implement a strategy for production of alternative transportation fuels and synthetic  
25 natural gas from fossil energy resources and biomass resources. The strategy shall  
26 address:

- 27 (1) Technologies available or in use for producing alternative transportation fuels and

- 1 synthetic natural gas from fossil energy resources and biomass resources and the  
2 relative advantages of these in terms of process efficiencies, environmental  
3 performance, and marketable products, including chemicals, industrial feedstocks,  
4 and electricity;
- 5 (2) Research, demonstration, and commercial-scale construction and operation of one  
6 (1) or more technologies, and follow-up expansion;
- 7 (3) The essential nature of efficient cooperation, coordination, and synergy between the  
8 efforts of the Office of Energy Policy~~Department for Energy Development and~~  
9 ~~Independence~~ and those of Kentucky's public and private colleges and universities  
10 in order to maximize Kentucky's opportunities to access federal funds and to receive  
11 research grants and awards from federal and other sources to fund the development  
12 of clean coal technology, coal-to-liquid-fuel conversion, synthetic natural gas,  
13 alternative transportation fuels, and biomass resources;
- 14 (4) The identification of federal funds available for research, development,  
15 construction, and operation of alternative transportation fuels or synthetic natural  
16 gas plants at laboratory, demonstration, and commercial scale;
- 17 (5) Establishment of a major federal energy research laboratory in Kentucky;
- 18 (6) Industry participation, both by single firms and by consortia, in research,  
19 development, construction, and operation of alternative transportation fuels or  
20 synthetic natural gas plants;
- 21 (7) Establishment or expansion of Kentucky state government incentives for  
22 development, construction, or operation of alternative transportation fuels and  
23 synthetic natural gas production facilities, including but not limited to financial  
24 incentives, tax incentives, mandating or providing incentives for use of alternative  
25 transportation fuels and synthetic natural gas by state government, school districts,  
26 or utilities, authority to issue bonds, and acquisition and preliminary environmental  
27 assessment of industrial sites; and

1 (8) Development of incentives to encourage energy conservation and renewable fuel  
2 and energy use and deployment of renewable energy, including solar power, wind  
3 power, hydropower, and other sources.

4 ➔Section 55. KRS 154.27-030 is amended to read as follows:

5 (1) A company with an eligible project may submit an application for incentives to the  
6 authority prior to making any capital investment it will seek to recover.

7 (2) The application shall include:

8 (a) The name of the applicant and identification of any affiliates of the applicant;

9 (b) The type of eligible project;

10 (c) A description of the location;

11 (d) A full description of the eligible project scope, including but not limited to:

12 1. A list and the status of permits, certificates, or approvals required by the  
13 federal government, the Commonwealth, or any jurisdiction within the  
14 Commonwealth;

15 2. A description of the carbon capture readiness of the facility, if the  
16 proposed eligible project is an alternative fuel facility or a gasification  
17 facility;

18 3. Any feasibility studies, including supporting documents;

19 4. Anticipated sources of eligible project funding;

20 5. The total anticipated capital investment and the time period over which  
21 the capital investment will occur;

22 6. The proposed feedstock and the estimated volume of feedstock use per  
23 year;

24 7. A description of the proposed products to be produced by the facility  
25 and the process that will be used to produce the products;

26 8. The planned capacity of the facility after construction, retrofit, or  
27 upgrade;

- 1           9.    The estimated output of the facility upon completion; and
- 2           10.  A plan for and description of how the company will employ Kentucky
- 3                residents at the facility and how the company will ensure, to the extent
- 4                possible, that workers employed during construction, retrofit, or upgrade
- 5                of the facility are Kentucky residents. The plan shall include projected
- 6                numbers;
- 7           (e)  Identification of the specific incentives sought;
- 8           (f)  Payment of any applicable application fees required by the authority to offset
- 9                reasonable costs of reviewing and processing the application; and
- 10          (g)  Other information as required by the authority.
- 11   (3)  The authority shall forward the application to the Department of Revenue and the
- 12        Office of Energy Policy~~[Department for Energy Development and Independence]~~
- 13        for review and comment with a date by which comments shall be provided back to
- 14        the authority. The authority may forward the application to the Center for Applied
- 15        Energy Research for review and comment as well.
- 16   (4)  (a)  The authority shall review the application and shall verify that:
- 17           1.    The applicant has met all of the statutory and regulatory requirements
- 18                established by this subchapter and regulations promulgated thereunder;
- 19           2.    The applicant has secured or is in the process of securing all necessary
- 20                permits, certificates, or approvals required by the federal government,
- 21                the Commonwealth, or any jurisdiction within the Commonwealth;
- 22           3.    The proposed facility is carbon capture ready, if the proposed facility is
- 23                an alternative fuel facility or gasification facility;
- 24           4.    The company has a plan that includes a projected number of Kentucky
- 25                residents that will be employed during the construction, retrofit, or
- 26                upgrade of the facility and at the facility upon completion; and
- 27           5.    Any other requirements established by the authority.

1 (b) The Department of Revenue and the Office of Energy Policy~~[Department for~~  
2 ~~Energy Development and Independence]~~ shall review the application and shall  
3 verify that the company seeking approval and all affiliate companies are in  
4 good standing with the department.

5 (c) The authority may engage the services of outside consultants to assist in the  
6 review of the application. Costs associated with the engagement of outside  
7 consultants shall be borne by the applicant.

8 (5) (a) Upon the earlier of:

9 1. The receipt of comments and recommendations from the Office of  
10 Energy Policy~~[Department for Energy Development and Independence]~~,  
11 the Department of Revenue, and the Center for Applied Energy  
12 Research, if applicable; or

13 2. The expiration of the time period established by the authority for  
14 receiving comments pursuant to subsection (3) of this section;  
15 the authority may, through the adoption of a resolution, preliminarily approve  
16 an applicant for incentives under this subchapter.

17 (b) Preliminary approval shall be based upon representations of the applicant in  
18 the application and attachments as well as other information submitted with  
19 the application. The authority shall make a finding that, based upon the  
20 applicant's representations, the project appears to be eligible for incentives  
21 pursuant to this subchapter.

22 (c) Prior to final approval:

23 1. The applicant shall:

24 a. Provide all supportive data requested by the authority;

25 b. Secure all required permits or take appropriate steps to do so; and

26 c. Cooperate with the authority to obtain opinions or  
27 recommendations from any outside consultants; and

- 1           2. The authority shall, in consultation with the Office of Energy  
2           Policy~~[Department for Energy Development and Independence]~~ or any  
3           other entity, verify the representations of the applicant.
- 4           (d) 1. A preliminarily approved company seeking an advance disbursement  
5           employment incentive under KRS 154.27-090 shall, prior to receiving  
6           final approval from the authority, provide to the authority a labor market  
7           analysis prepared by a public postsecondary education institution in the  
8           Commonwealth with knowledge of the labor market in the region in  
9           which the eligible project will be located.
- 10          2. The labor market analysis shall evaluate the construction market in the  
11          region where the proposed project is to be located and the estimated  
12          labor component of the proposed project. The public postsecondary  
13          education institution may consult with the Center for Applied Energy  
14          Research or the Office of Energy Policy~~[Department for Energy~~  
15          ~~Development and Independence]~~ in determining the types of laborers  
16          required for the construction, retrofit, or upgrade of the eligible facility.
- 17          3. The labor market analysis shall include an estimate of the percentage of  
18          the estimated labor component that constitutes wages to be paid to  
19          Kentucky residents.
- 20          (e) Based upon all of the information available, the authority may, through  
21          adoption of a resolution, give its final approval and authorize the execution of  
22          a tax incentive agreement to be negotiated pursuant to KRS 154.27-040.
- 23          (6) The authority may request any materials and make any inquiries concerning an  
24          application that the authority deems necessary.
- 25          (7) The actual capital investment that may be recovered and percentages of each  
26          incentive that an approved company may receive shall be negotiated between the  
27          approved company and the authority and shall not exceed the limitations established

- 1 by KRS 154.27-020.
- 2 (8) The General Assembly recognizes that the incentives offered under this subchapter  
3 include the possibility of the release of incentives to approved companies prior to  
4 construction completion, and that the release of these incentives may present more  
5 risk for the Commonwealth. The authority is directed to consider the possible  
6 increased risk to the Commonwealth when negotiating tax incentive agreements that  
7 include incentives prior to construction completion, and to incorporate repayment or  
8 similar remedy provisions in the tax incentive agreement to the extent the authority  
9 determines such provisions are necessary to protect the investment made by the  
10 Commonwealth if the approved company fails to comply with the terms of the tax  
11 incentive agreement.
- 12 (9) The authority and the approved company shall enter into a tax incentive agreement  
13 in accordance with KRS 154.27-040.
- 14 (10) The authority, with input from the Office of Energy Policy~~Department for Energy~~  
15 ~~Development and Independence~~ and the Department of Revenue, shall establish  
16 additional standards and requirements for the application process through the  
17 promulgation of administrative regulations in accordance with KRS Chapter 13A.  
18 The standards shall include but not be limited to the creditworthiness of eligible  
19 companies and the likelihood of economic success of the economic development  
20 project.
- 21 (11) Notwithstanding any other provision of this subchapter, the authority may approve a  
22 maximum of five (5) projects under this subchapter that involve an alternative fuel  
23 facility located in Kentucky that:
- 24 (a) Is newly constructed on or after August 1, 2010, or an existing facility located  
25 in Kentucky that is retrofitted or upgraded on or after August 1, 2010;
- 26 (b) After the new construction, retrofit, or upgrade, primarily produces for sale  
27 alternative transportation fuels using natural gas or natural gas liquids as the

1 primary feedstock; and

2 (c) Has a minimum capital investment of one million dollars (\$1,000,000).

3 ➔Section 56. KRS 154.27-040 is amended to read as follows:

4 The terms and conditions of the tax incentive agreement shall be negotiated between the  
5 authority and the approved company. The tax incentive agreement may include one (1) or  
6 more of the incentives available under this subchapter or any combination of the  
7 incentives as negotiated between the authority and the approved company. The tax  
8 incentive agreement shall include but not be limited to the following provisions:

- 9 (1) The duties and responsibilities of the parties;
- 10 (2) The specific identification of incentives included in the tax incentive agreement,  
11 including the permissible percentage recovery under each included incentive;
- 12 (3) A detailed description of the eligible project, including an estimate of the capital  
13 investment;
- 14 (4) If the eligible project is an alternative fuel facility or a gasification facility, a  
15 requirement that the facility be carbon capture ready;
- 16 (5) The minimum capital investment required and the maximum capital investment that  
17 may be recovered;
- 18 (6) The time within which the minimum capital investment shall be made;
- 19 (7) The activation date and the termination date. The agreement shall commence on the  
20 activation date and shall terminate upon the earlier of full receipt of the maximum  
21 amount of incentives by the approved company or twenty-five (25) years from the  
22 activation date;
- 23 (8) A target percentage of the workforce that is Kentucky residents during the  
24 construction, retrofit, or upgrade of the facility, and at the facility upon completion  
25 of construction;
- 26 (9) If the wage assessment permitted by KRS 154.27-080 is included, the percentage  
27 rate at which the assessment shall be imposed;

- 1 (10) If the advance disbursement employment incentive permitted by KRS 154.27-090 is  
2 included:
- 3 (a) The estimated labor component and the estimated Kentucky resident factor as  
4 determined under KRS 154.27-090;
- 5 (b) A schedule for the disbursement of funds during the construction period;
- 6 (c) A provision that requires a reduction or adjustment in the receipt of post-  
7 construction incentives for which the approved company is eligible under the  
8 tax incentive agreement until the advance disbursement has been repaid by the  
9 approved company;
- 10 (d) A provision addressing an alternate payment method if the incentives are not  
11 sufficient to repay the advance disbursement; and
- 12 (e) A repayment schedule that includes the amount of reduction, the incentives  
13 the reduction shall apply to, the amount of interest due, the time period over  
14 which the advance disbursement amount shall be recouped, and the amount  
15 that shall be recouped in each year. To the extent possible, the repayment  
16 schedule shall include uniform incremental payments;
- 17 (11) That the approval of the company is not a guarantee of incentives and that actual  
18 receipt of the incentives shall be contingent on the approved company filing the  
19 required requests for incentives and meeting the requirements established by the tax  
20 incentive agreement and by KRS 139.517, 141.421, 143.024, 154.27-060, 154.27-  
21 070, 154.27-080, and 154.27-090 that apply to the incentives included;
- 22 (12) That the approved company shall provide the authority with documentation of  
23 capital expenditures in a manner acceptable to the authority;
- 24 (13) Negotiated terms relating to repayment or similar remedies for incentives received  
25 prior to the completion of construction if the approved company fails to comply  
26 with the terms of the tax incentive agreement;
- 27 (14) That, if the authority determines that the approved company has failed to comply

1 with any of its obligations under the tax incentive agreement:

2 (a) The authority shall have the right to suspend the incentives available to the  
3 approved company;

4 (b) Both the authority and the department shall have the right to pursue any  
5 remedy provided under the tax incentive agreement;

6 (c) The authority may terminate the tax incentive agreement; and

7 (d) Both the authority and the department may pursue any other remedy at law to  
8 which it may be entitled;

9 (15) A requirement that the authority monitor the tax incentive agreement;

10 (16) A requirement that the approved company provide to the authority the information  
11 necessary to monitor the tax incentive agreement and authorization for the authority  
12 to share that information with the Department of Revenue, the *Office of Energy*  
13 *Policy*~~[Department for Energy Development and Independence]~~, or any other entity  
14 the authority determines is necessary for the purposes of monitoring and enforcing  
15 the terms of the tax incentive agreement; and

16 (17) Any other provisions not inconsistent with this subchapter and determined to be  
17 necessary or appropriate by the parties to the tax incentive agreement.

18 ➔Section 57. KRS 154.27-050 is amended to read as follows:

19 (1) The department may release to an approved company any sales tax incentives under  
20 KRS 139.517 and 154.27-070 after review of the request for incentives required by  
21 KRS 139.517 and determination of the amount due regardless of whether the  
22 minimum capital investment has been made as required by the tax incentive  
23 agreement.

24 (2) The authority shall monitor all tax incentive agreements. The authority may seek  
25 assistance from the *Office of Energy Policy*~~[Department for Energy Development~~  
26 ~~and Independence]~~, the Department of Revenue, the Center for Applied Energy  
27 Research, or other entities or individuals in performing its monitoring functions.

- 1 (3) The department shall track the amount of revenues released and incentives received  
2 for each eligible project under each tax incentive agreement and shall provide the  
3 authority the information upon request.
- 4 (4) By November 1 of each year, the authority and the department shall jointly prepare  
5 a report for the Governor and the Legislative Research Commission, as required in  
6 KRS 154.12-2035. The report shall include a list of all companies with which tax  
7 incentive agreements have been entered into and a summary of the terms of each  
8 agreement, including the type of facility approved, product to be produced,  
9 estimated output upon completion, required minimum capital investment and  
10 maximum recovery, incentives approved by type of tax and amount, activation date,  
11 and termination date.

12 ➔Section 58. KRS 154.27-090 is amended to read as follows:

- 13 (1) An approved company may be eligible for the advance disbursement of a portion of  
14 the post-construction period incentives for which it has been approved. The amount  
15 of the advance disbursement shall be based on the employment of Kentucky  
16 residents during the construction of the facility, shall be negotiated with the  
17 authority as part of the tax incentive agreement, and shall not exceed the limitations  
18 established by this section.
- 19 (2) The authority shall compute the maximum amount of the advance disbursement  
20 employment incentive as follows:
- 21 (a) The base amount shall equal the total capital investment specified in the tax  
22 incentive agreement multiplied by the labor intensity factor as determined in  
23 paragraph (c) of this subsection;
- 24 (b) The base amount shall then be multiplied by the Kentucky resident factor as  
25 determined in paragraph (d) of this subsection. The resulting amount shall be  
26 the maximum advance disbursement employment incentive that the authority  
27 may approve;

- 1 (c) The labor intensity factor shall be:
- 2 1. Twenty-five percent (25%), if the estimated labor component for the
- 3 eligible project is greater than thirty percent (30%) of the total capital
- 4 investment;
- 5 2. Twenty percent (20%), if the estimated labor component for the eligible
- 6 project is greater than twenty-five percent (25%) but less than or equal
- 7 to thirty percent (30%) of the total capital investment; or
- 8 3. Fifteen percent (15%), if the estimated labor component for the eligible
- 9 project is equal to or less than twenty-five percent (25%) of the total
- 10 capital investment; and
- 11 (d) The Kentucky resident factor shall be four percent (4%) multiplied by a
- 12 fraction, the numerator of which shall be the estimated total gross wages that
- 13 will be paid to Kentucky residents who are working on the construction,
- 14 retrofit, or upgrade of the eligible project, and the denominator of which shall
- 15 be the estimated total gross wages that will be paid to all workers working on
- 16 the construction, retrofit, or upgrade of the eligible project.
- 17 (3) The tax incentive agreement shall include a schedule for the disbursement of the
- 18 advance disbursement employment incentive during the construction period. In
- 19 negotiating the disbursement schedule, the authority shall consider the possible
- 20 increased risk to the Commonwealth associated with the disbursement of funds
- 21 prior to construction completion.
- 22 (4) (a) The approved company shall repay the advance disbursement through a
- 23 reduction in the post-construction period incentive amounts it would
- 24 otherwise receive. The amount by which the post-construction period
- 25 incentive amounts are reduced shall be applied as a credit against the amount
- 26 owed by the approved company.
- 27 (b) The amount of the annual reduction, the incentives the reduction shall apply

1 to, interest due, the time period over which the advance disbursement amount  
2 shall be recouped, and alternate payment methods if incentives are not  
3 sufficient to repay the advance disbursement shall be negotiated between the  
4 authority and the approved company as part of the tax incentive agreement.

5 (c) The repayment schedule included in the tax incentive agreement shall require  
6 uniform incremental payments, to the extent possible, and shall continue until  
7 the entire advance disbursement amount has been repaid by the approved  
8 company.

9 (d) The tax incentive agreement shall include a provision addressing an alternate  
10 method for payment if incentives are not sufficient to repay the advance  
11 disbursement.

12 (e) The total post-construction incentive payments for which an approved  
13 company is eligible shall be tracked by the department. That portion of the  
14 incentive amounts identified in the tax incentive agreement as being devoted  
15 to the repayment of the advance disbursement amount shall be credited against  
16 the balance due from the approved company and shall not be paid to or  
17 retained by the approved company.

18 (f) The department shall forward the amounts credited to the repayment of the  
19 advance disbursement amount to the Cabinet for Economic Development,  
20 Department of Financial Incentives for deposit in the Energy Projects  
21 Economic Development Bond Pool.

22 (g) During the period for which any portion of the post-construction incentive  
23 payments are being credited toward the advance disbursement amount, the  
24 approved company shall, at the direction of the authority or the department,  
25 file all required requests for incentives, submit all required remittances, make  
26 all required tax payments, and provide to the department and the authority any  
27 information that would normally be required for the approved company to

1 receive the incentives.

2 (5) The authority may, for purposes of administering the provisions of this section,  
3 solicit information or consultation from one (1) or more of the following sources:

4 (a) The Office of Energy Policy~~[Department for Energy Development and~~  
5 ~~Independence]~~;

6 (b) The Center for Applied Energy Research;

7 (c) The Department for Workforce Investment; or

8 (d) Any public postsecondary education institution within the Commonwealth.

9 ➔Section 59. KRS 157.455 is amended to read as follows:

10 (1) As used in this section:

11 (a) "Life-cycle cost analysis" means to calculate and compare different building  
12 designs to identify which is the best investment over the long term. Life-cycle  
13 costs include design and construction costs, operating costs, maintenance  
14 costs, and repair and replacement costs, adjusted for the time value of money;

15 (b) "Net zero building" means a building in which the amount of energy provided  
16 by on-site renewable energy sources is equal to the amount of energy used by  
17 the building; and

18 (c) "Efficient school design" means a school building design:

19 1. That meets, at a minimum, the requirements of the United States Green  
20 Building Council's Leadership in Energy and Environmental Design  
21 (LEED) for schools at the "Certified" level or certification under a  
22 comparable system with equivalent requirements or other building  
23 performance certification systems, such as the United States Department  
24 of Energy's Energy Star program;

25 2. That ensures energy savings from a building design that equates to or  
26 exceeds ten percent (10%) over the American Society of Heating,  
27 Refrigerating, and Air Conditioning Engineers energy standard 90.1-

1                   2007; and

2                   3. For which whole building life-cycle cost analysis illustrates that the  
3                   design is cost-effective.

4 (2) The General Assembly hereby finds that schools that are constructed or renovated  
5                   using efficient school design are proven effective vehicles for accomplishing some  
6                   or all of the following beneficial public purposes:

7                   (a) Lower operating costs and increased asset value;

8                   (b) Reduced waste sent to landfills;

9                   (c) Conservation of energy and water;

10                  (d) Reduced storm drainage runoff;

11                  (e) Healthier, safer environments for occupants;

12                  (f) Reduced emissions of greenhouse gases; and

13                  (g) Improved student attendance and performance by:

14                   1. Using the building as a teaching tool;

15                   2. Using the local environment as a context for curriculum integration;

16                   3. Providing rigorous, highly relevant, and applied learning; and

17                   4. Improving productivity by making buildings healthier for occupants,  
18                   especially through the increased use of natural light.

19 (3) The Kentucky Department of Education and all school districts undertaking the  
20                   construction of new school buildings or the major renovation of existing school  
21                   buildings are strongly encouraged to:

22                  (a) Meet or exceed efficient school design standards in planning and designing all  
23                  new buildings and major renovation projects;

24                  (b) Use life-cycle cost analysis to evaluate different design proposals; and

25                  (c) Consider the possibility that each new school building or major renovation of  
26                  a building could be a net zero building, either during the construction or  
27                  renovation, or at a later date as resources become available.

- 1 (4) (a) The Kentucky efficient school design trust fund is hereby created as a  
2 restricted account to be administered by the Department of Education.
- 3 (b) The account may receive contributions, gifts, donations, appropriations, and  
4 any other moneys made available for the account. Notwithstanding KRS  
5 45.229, any moneys remaining in the account at the close of a fiscal year shall  
6 not lapse, but shall be carried forward into the succeeding fiscal year to be  
7 used for the purposes set forth in this section. Interest on moneys in the  
8 account shall accrue to the account.
- 9 (c) Moneys in the account shall be used to offset the initial additional cost, if any,  
10 associated with the construction or renovation of school buildings using  
11 efficient school design.
- 12 (d) The Kentucky Board of Education shall promulgate administrative regulations  
13 pursuant to KRS Chapter 13A to prescribe how a local school district may  
14 qualify for and use funds from the account created by this subsection.
- 15 (5) The Department of Education shall develop and adopt guidelines for efficient  
16 school design, net zero buildings, and life-cycle cost analysis, including the  
17 identification of appropriate computer-based simulation programs for use in  
18 undertaking life-cycle cost analysis.
- 19 (6) The Department of Education and the Office of Energy Policy ~~Department for~~  
20 ~~Energy Development and Independence~~ shall assist school districts in:
- 21 (a) Developing methods for measuring ongoing operating savings resulting from  
22 the use of efficient school design;
- 23 (b) Identifying sources for training for school staff and students to ensure that  
24 efficient school design features and components are fully utilized; and
- 25 (c) Identifying ways that efficient school design and its energy-saving  
26 components can be integrated into the school curriculum.
- 27 (7) The Department of Education and the Office of Energy Policy ~~Department for~~

1 ~~Energy Development and Independence~~ shall, by November 1, 2010, and each year  
2 thereafter, for the fiscal year ending on June 30 of that year, prepare a report that  
3 shall be submitted to the Legislative Research Commission and the Governor. The  
4 report shall address new school buildings or building renovations and shall include  
5 but not be limited to the following:

- 6 (a) An assessment of the implementation of efficient school design within  
7 Kentucky's education system;
- 8 (b) Documented energy savings from any buildings built using efficient school  
9 design or net zero school buildings in operation;
- 10 (c) A list of the new or renovated school buildings completed or identified for  
11 future construction during the prior year using efficient school design,  
12 including the name of the school district, name of the school, total project  
13 cost, additional cost or savings, if any, associated with efficient school design  
14 features, and efficient school design features included in the project;
- 15 (d) A list of all school buildings that operate as a net zero building, and school  
16 buildings which school districts plan to convert to net zero. The list shall  
17 include the name of the school district, the name of the school, the total cost  
18 associated with the school building becoming a net zero building, and the  
19 components that will be installed to make the building a net zero building;
- 20 (e) Any recommendations relating to efficient school design; and
- 21 (f) A list of new school buildings completed during the prior year without using  
22 efficient school design and an explanation of why efficient school design was  
23 not used.

24 ➔Section 60. KRS 160.325 is amended to read as follows:

- 25 (1) In an effort to reduce the rising energy costs that are straining school budgets, on or  
26 before January 1, 2010, each board of education shall enroll in the Kentucky Energy  
27 Efficiency Program that is offered by the Kentucky Pollution Prevention Center at

1 the University of Louisville in order to obtain information regarding the potential  
2 energy savings for every board-owned and board-operated facility.

3 (2) The Kentucky Pollution Prevention Center may prioritize the provision of  
4 assistance and development of energy management plans based upon available  
5 resources.

6 (3) On or before December 1, 2011, and on or before December 1 of each year  
7 thereafter, the Kentucky Pollution Prevention Center shall file a report for the  
8 preceding fiscal year with the Office of Energy Policy~~Department for Energy~~  
9 ~~Development and Independence~~ and the Legislative Research Commission. The  
10 report shall include:

11 (a) The number of boards of education enrolled in the Kentucky Energy  
12 Efficiency Program;

13 (b) The status of the development of energy management plans by those boards of  
14 education and anticipated savings to be obtained by those plans; and

15 (c) The amount and disposition of grants provided by the Office of Energy  
16 Policy~~Department for Energy Development and Independence~~ and any state  
17 appropriations for support of the Kentucky Energy Efficiency Program.

18 ➔Section 61. KRS 224.10-020 is amended to read as follows:

19 (1) There is established within the cabinet a Department for Natural Resources, a  
20 Department for Environmental Protection, and an Office of Energy Policy~~a~~  
21 ~~Department for Energy Development and Independence~~. Each department shall be  
22 headed by a commissioner, and each office shall be headed by an executive  
23 director. Commissioners and executive directors shall be appointed by the  
24 secretary with the approval of the Governor as required by KRS 12.050. Both~~The~~  
25 commissioners and executive directors shall be directly responsible to the secretary  
26 and shall perform the~~such~~ functions, powers, and duties as provided by law and as  
27 prescribed by the secretary~~may prescribe~~.

1 (2) There is established within the Department for Natural Resources a Division of  
2 Forestry, a Division of Conservation,~~[a Division of Technical and Administrative~~  
3 ~~Support,]~~ a Division of Mine Reclamation and Enforcement, a Division of Mine  
4 Permits, a Division of Abandoned Mine Lands, a Division of Oil and Gas, a  
5 Division of Mine Safety, and an Office of the Reclamation Guaranty Fund.~~[The~~  
6 ~~Kentucky Mining Board is attached to the Department for Natural Resources for~~  
7 ~~administrative purposes.]~~ Each division shall be headed by a director, and each  
8 office shall be headed by an executive director. Directors and executive directors  
9 shall be appointed by the secretary with the approval of the Governor as required by  
10 KRS 12.050, except for the director of the Division of Conservation, who shall be  
11 appointed in accordance with KRS 146.100. Both directors and executive directors  
12 shall be directly responsible to the commissioner and shall perform the functions,  
13 powers, and duties as provided by law and as prescribed by the secretary.

14 (3) There is established within the Department for Environmental Protection a Division  
15 of Water, a Division for Air Quality, a Division of Waste Management, a Division  
16 of Enforcement, a Division of Compliance Assistance, and a Division of  
17 Environmental Program Support. Each division shall be headed by a director  
18 appointed by the secretary with the approval of the Governor as required by KRS  
19 12.050. Directors shall be directly responsible to the commissioner and shall  
20 perform the functions, powers, and duties as provided by law and as prescribed by  
21 the secretary.

22 (4) There is established within the Office of Energy Policy~~[Department for Energy~~  
23 ~~Development and Independence]~~ a Division of Energy Assistance~~[Efficiency and~~  
24 ~~Conservation, a Division of Renewable Energy, a Division of Biofuels, a Division~~  
25 ~~of Energy Generation, Transmission and Distribution, a Division of Carbon~~  
26 ~~Management, and a Division of Fossil Energy Development].~~ The~~[Each]~~ division  
27 shall be headed by a director. The director~~[Directors]~~ shall be appointed by the

1 secretary with the approval of the Governor as required by KRS 12.050.

2 ➔Section 62. KRS 224.10-022 is amended to read as follows:

3 There is established in the Office of the Secretary an Office of Administrative Hearings,  
 4 *an Office of Communication*, and an Office of Legislative and Intergovernmental  
 5 Affairs. Each of these offices shall be headed by an executive director appointed by the  
 6 secretary with the approval of the Governor as required by KRS 12.050. There is also  
 7 established in the Office of the Secretary an Office of *Legal Services*~~[General Counsel]~~,  
 8 headed by *an executive director*~~[a general counsel]~~ appointed by the secretary with the  
 9 approval of the Governor in accordance with KRS 12.050 and 12.210. The executive  
 10 directors~~[and the general counsel]~~ shall be directly responsible to the secretary and shall  
 11 perform the functions, powers, and duties as provided by law and as prescribed by the  
 12 secretary. *There is established in the Office of Legal Services a Legal Division I and*  
 13 *Legal Division II. Each of these divisions shall be headed by a general counsel*  
 14 *appointed by the secretary with the approval of the Governor in accordance with KRS*  
 15 *12.050 and 12.210. The general counsels shall be directly responsible to the executive*  
 16 *director of the Office of Legal Services and shall perform the functions, powers, and*  
 17 *duties as provided by law and as prescribed by the executive director.* The *Office of*  
 18 *Kentucky*~~[State]~~ *Nature Preserves*~~[Commission]~~, which shall be headed by *an executive*  
 19 *director appointed by the secretary with the approval of the Governor in accordance*  
 20 *with KRS 12.050 and 12.210*~~[a director]~~, and the Mine Safety Review Commission,  
 21 whose members shall be appointed by the Governor with the consent of the General  
 22 Assembly, shall be attached to the Office of the Secretary. The Kentucky Public Service  
 23 Commission, which shall be headed by an executive director appointed by the  
 24 commission in accordance with KRS 278.100, shall be attached to the Office of the  
 25 Secretary for administrative purposes.

26 ➔Section 63. KRS 247.920 is amended to read as follows:

27 (1) Application for an alcohol production exemption certificate shall be filed with the

1 Department of Revenue in such manner and in such form as may be prescribed by  
2 regulations issued by the Department of Revenue and shall contain plans and  
3 specifications of the structure or structures including all materials incorporated and  
4 to be incorporated therein and a descriptive list of all equipment acquired or to be  
5 acquired by the applicant for the purpose of producing ethanol for fuel use and any  
6 additional information deemed necessary by the Department of Revenue for the  
7 proper administration of KRS 247.910 and this section. The *Office of Energy*  
8 *Policy*~~Department for Energy Development and Independence~~ shall provide  
9 technical assistance and factual information as requested in writing by the  
10 Department of Revenue. If the Department of Revenue finds that the facility  
11 qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter  
12 a finding and issue a certificate to that effect. The effective date of the certificate  
13 shall be the date of issuance of the certificate.

14 (2) Before issuing an alcohol production tax exemption certificate, the Department of  
15 Revenue shall give notice in writing by mail to the *Office of Energy*  
16 *Policy*~~Department for Energy Development and Independence~~, and shall afford to  
17 the applicant and to the *Office of Energy Policy*~~Department for Energy~~  
18 ~~Development and Independence~~ an opportunity for a hearing. On like notice and  
19 opportunity for a hearing, the Department of Revenue shall on its own initiative  
20 revoke the certificate when any of the following appears:

- 21 (a) The certificate was obtained by fraud or misrepresentation;
- 22 (b) The holder of the certificate has failed substantially to proceed with the  
23 construction, reconstruction, installation, or acquisition of the alcohol  
24 production facilities; or
- 25 (c) The structure or equipment or both to which the certificate relates has ceased  
26 to be used for the primary purpose of alcohol production for fuel use and is  
27 being used for a different purpose.

- 1 (3) If the circumstances so require, the Department of Revenue, in lieu of revoking the  
2 certificate, may modify it.
- 3 (4) On mailing of notice of the action of the Department of Revenue revoking or  
4 modifying a certificate as provided in subsection (5) of this section, the certificate  
5 shall cease to be in force or shall remain in force only as modified as the case may  
6 require.
- 7 (5) An alcohol production tax exemption certificate, when issued, shall be sent by  
8 certified mail to the applicant and the notice of issuance in the form of certified  
9 copies thereof shall be sent to the Office of Energy Policy~~[Department for Energy~~  
10 ~~Development and Independence]~~. Notice of an order of the Department of Revenue  
11 denying, revoking, or modifying a certificate in the form of certified copies thereof  
12 shall be sent by certified mail to the applicant or the holder and shall be sent to the  
13 Office of Energy Policy~~[Department for Energy Development and Independence]~~.  
14 The applicant or holder and the Office of Energy Policy~~[Department for Energy~~  
15 ~~Development and Independence]~~ shall be deemed parties for the purpose of the  
16 review afforded by subsection (6) of this section.
- 17 (6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of  
18 an alcohol production tax exemption certificate may appeal from the final ruling of  
19 the Department of Revenue to the Kentucky Claims Commission pursuant to KRS  
20 49.220.
- 21 (7) In the event of the sale, lease, or other transfer of an alcohol production facility, not  
22 involving a different location or use, the holder of an alcohol production tax  
23 exemption certificate for the facility may transfer the certificate by written  
24 instrument to the person who, except for the transfer of the certificate, would be  
25 obligated to pay taxes on the facility. The transferee shall become the holder of the  
26 certificate and shall have all rights pertaining thereto, effective as of the date of  
27 transfer of the certificate. The transferee shall give written notice of the effective

1 date of the transfer, together with a copy of the instrument of transfer to the Office  
2 of Energy Policy~~[Department for Energy Development and Independence]~~ and the  
3 Department of Revenue.

4 (8) In the event an alcohol production facility for which an exemption certificate is held  
5 ceases to be used for the primary purpose of alcohol production for fuel use or is  
6 used for a different purpose other than that for which the exemption certificate was  
7 granted, the holder of the certificate shall give written notice by certified mail of the  
8 change to the Office of Energy Policy~~[Department for Energy Development and~~  
9 ~~Independence]~~ and to the Department of Revenue.

10 (9) The alcohol production facility exemption certificate, upon approval, shall exempt  
11 said facilities from taxes outlined in the provisions of KRS 247.910 and this section  
12 and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate  
13 shall remain in force for a period of eight (8) years from the date of issuance and at  
14 the end of said period shall lapse. Any alcohol production facility previously  
15 exempted under the terms of KRS 247.910 and this section shall not be eligible for  
16 recertification upon completion of the eight (8) year certificate period.

17 ➔Section 64. KRS 353.5901 is amended to read as follows:

18 (1) A well operator shall submit to the department an operations and reclamation plan  
19 at the time of filing an application for permit to drill, deepen, or reopen a well. The  
20 plan shall be filed on forms provided by the department and shall include:

21 (a) A narrative description of those best management practices intended to be  
22 employed to prevent pollution, erosion, and sedimentation from the well site  
23 and all disturbed areas, including roads. The description shall be updated  
24 when the best management practices utilized on site differ from those  
25 described in the plan;

26 (b) A narrative description of the location of all areas to be disturbed, including  
27 the location of roads, gathering lines, the well site, tanks and other storage

- 1 facilities, and any other information that may be required by the department.  
2 Accompanying this narrative description shall be a plat depicting the location  
3 on the land of all of these disturbances or facilities; and
- 4 (c) Any additional information that the department may require.
- 5 (2) The plan shall include at a minimum a narrative describing the following categories:
- 6 (a) Site plans;  
7 (b) Construction practices to be used;  
8 (c) Reclamation methods to be used after well completion;  
9 (d) Maintenance of the reclaimed site; and  
10 (e) Site closure describing plugging, abandonment, and reclamation procedures.
- 11 (3) The department shall review and approve the operations and reclamation plan prior  
12 to permit issuance in cases where there has not been a severance of the ownership of  
13 the oil and gas from the ownership of the surface to be disturbed.
- 14 (4) In all cases where there has been a complete severance of the ownership of the oil  
15 and gas from the ownership of the surface and the surface owners of all disturbed  
16 areas have not signed agreements with the well operator agreeing to the operations  
17 and reclamation plan, at the time of filing the application the well operator shall  
18 cause to be delivered to the surface owners of all disturbed areas who have not  
19 agreed to the operations and reclamation plan, by certified mail, return receipt  
20 requested:
- 21 (a) A copy of the operations and reclamation plan required by paragraph (a) of  
22 subsection (1) of this section, and the narrative description of land  
23 disturbances and plat required by paragraph (b) of subsection (1) of this  
24 section; and
- 25 (b) A notice to read as follows: "If you do not agree with the proposed use of your  
26 land by the well operator, the well operator may request mediation of your  
27 dispute by the Office of Legal Services of the Energy and Environment

1            ~~Cabinet~~ ~~General Counsel's Office of the Department for Natural Resources~~.  
2            If mediation is requested, and you decide to participate, each party to the  
3            mediation will be charged one hundred dollars (\$100) to help cover the cost of  
4            mediation. You will be notified of the time and place for mediation, if the well  
5            operator chooses mediation, and of your right to participate."

6            The certified mail receipt, when returned, shall be filed by the well operator with  
7            the department and made part of the permit application.

8            (5) If the well operator has been unable to reach agreement with the surface owners of  
9            all areas to be disturbed in all cases where there has been a complete severance of  
10           the ownership of the oil and gas from the ownership of the surface to be disturbed,  
11           the permit required by this chapter shall not be issued until the dispute has been  
12           referred to mediation by the Office of Legal Services of the Energy and  
13           Environment Cabinet ~~General Counsel's Office of the Department for Natural~~  
14           ~~Resources~~, and mediation has been concluded either by agreement between the  
15           parties or by a report of the mediator, in accordance with subsection (6) of this  
16           section.

17           (6) The well operator may request mediation any time after filing the permit  
18           application, and all parties participating in the mediation shall pay a nonrefundable  
19           fee of one hundred dollars (\$100) to the Kentucky State Treasurer, which shall be  
20           for the sole use of the department and shall be in addition to any money  
21           appropriated by the General Assembly for the use of the department. The  
22           department may waive the mediation fee for surface owners who submit verifiable  
23           proof of financial inability to pay. The department shall notify the well operator and  
24           all surface owners of areas to be disturbed by drilling who have not agreed to the  
25           operation and reclamation plan of the date and time mediation shall be conducted by  
26           certified mail, return receipt requested. The department shall conduct mediation at  
27           the site proposed to be disturbed within fifteen (15) days from the date requested, if

1 practicable. At the mediation, the mediator will attempt to facilitate an agreement  
2 between the well operator and the surface owner. If an agreement is not forthcoming  
3 after mediation, the mediator shall, within five (5) days after mediation, issue a  
4 report to the director of the Division of Oil and Gas recommending that the director:

- 5 (a) Accept the plan as submitted by the well operator; or
- 6 (b) Accept the plan with modifications set forth by the mediator.

7 (7) If an agreement between the well operator and the surface owners of all disturbed  
8 areas is not forthcoming after mediation, the mediator shall consider the following  
9 factors as to the reasonable use of the surface by the well operator in issuing a report  
10 to the director:

- 11 (a) The location of roads, gathering lines, and tank batteries;
- 12 (b) The timing of the operation, considering seasonal uses of the land by the  
13 surface owner and the need of the well operator to drill expeditiously;
- 14 (c) The impact on the other uses of the land by the surface owner, including the  
15 location of timber, houses, barns, ponds, crops, and other improvements;
- 16 (d) Whether the plan includes a plan for timely, effective reclamation of all  
17 disturbed areas; and
- 18 (e) Any other information deemed appropriate by the mediator.

19 (8) The director shall act upon the recommendation of the mediator within five (5) days  
20 of the receipt of the mediation report.

21 ➔Section 65. The following KRS section is repealed:

22 146.425 Kentucky Nature Preserves Commission.

23 ➔Section 66. The records, staff, property, and unexpended balances of  
24 appropriations, allocations, and other funds, including functions of budgeting and  
25 purchasing of the Kentucky State Nature Preserves Commission created under KRS  
26 146.425 and repealed by Section 65 of this Act are transferred to the Office of Kentucky  
27 Nature Preserves created under Section 23 of this Act. All rules, decisions, and actions

- 1 adopted, made, or taken by the Kentucky State Nature Preserves Commission that have
- 2 not been repealed or rescinded shall continue in effect until repealed or rescinded by the
- 3 Office of Kentucky Nature Preserves.