GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2010 REGULAR SESSION

HOUSE BILL NO. 240

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The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

AN ACT relating to the promotion of the efficient use of energy, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. KRS 56.770 is repealed and reenacted to read as follows:

As used in KRS 56.770 to 56.784, unless the context requires otherwise:

(1) "Aggregate simple payback period" means the simple payback period of a set of energy efficiency measures taken together for a building;

(2) "Building" means all contiguous land, structures, appurtenances, and improvements that use energy;

(3) "Cabinet" means the Finance and Administration Cabinet;

(4) "Energy audit" means examination of a building's energy-using systems, energy consumption and costs, occupancy patterns, and operation and maintenance procedures;

(5) "Energy efficiency measure" means any construction, improvement, repair, alteration, or betterment of a building that is intended to reduce energy consumption; or any equipment, fixture, or furnishing to be added to or used in a building that will be a cost-effective energy-related project that is intended to reduce energy consumption;

(6) "Guaranteed energy savings performance contract" means an agreement for the provision of energy services or equipment, including energy efficiency measures, energy conservation measures and alternate energy technologies for state government buildings, in which a person agrees to design, construct, install, maintain, operate, or manage energy systems or equipment to improve energy efficiency of, or produce energy in connection with, a state government building. Payments for a guaranteed energy savings performance contract shall be made from measured and verified savings generated from implementation of the energy efficiency measures financed by the contract. The term of a guaranteed energy

savings performance contract shall not exceed the life of the energy savings generated from implementation of the energy efficiency measures financed by the contract. If the measured and verified savings are not sufficient to pay the financial obligations under the contract, the contractor is liable for the contract payments;

(7) "High-performance building" means a public building that is designed, constructed, and capable of being operated in a manner that:

(a) Increases environmental performance and economic value over time;

(b) Safeguards the health of occupants;

(c) Enhances satisfaction and productivity of workers through energy-efficient systems;

(d) Incorporates environmentally friendly materials and products; and

(e) Reduces waste;

(8) "High-performance building standards" means a set of standards developed by the cabinet pursuant to KRS 56.777;

(9) "Engineering analysis" means a detailed cost-benefit analysis of energy efficiency investments including a review of potential cost savings through operation and maintenance changes;

(10) "Life-cycle cost analysis" means a method for estimating the total cost of an energy-using component or building over its useful life, including cost factors such as purchase price or construction, renovation, or leasing costs, energy use, maintenance, interest, and inflation;

(11) "Low cost/no cost energy conservation measures" means those energy saving practices and energy efficiency measures, usually involving operation and maintenance practices, that can be accomplished by existing personnel within existing operating budgets;

(12) "Simple payback period" means the number of years it takes to pay back, from estimated savings, the initial cost of an energy efficiency measure with the simple

payback period equal to the initial cost divided by the estimated annual savings;

(13) "Savings" means the reduction in expenditures, excluding any state government and post-secondary education personnel expenditures, that are measured and verified, including but not limited to energy usage, operating costs, and capital cost avoidance that occur as a result of the implementation of energy efficiency measures;

(14) "Capital cost avoidance" means savings generated when expenditures of appropriated capital construction or appropriated capital outlay funds are avoided because the budgeted capital improvements or items of equipment are contained within the energy efficiency measures provided by a guaranteed energy savings performance contract;

(15) "Operating costs" means expenditures associated with operating and maintaining a properly functioning building and its systems including but not limited to the heating, ventilation, cooling, lighting, plumbing, water heating, electrical, and laundry systems and their controls;

(16) "Public building" has the same meaning as in KRS 318.010;

(17) "ENERGY STAR" means the voluntary program administered by the United States Environmental Protection Agency and the United States Department of Energy that is designed to protect the environment through the promotion of energy-efficient products and practices;

(18) "Green Globes rating system" means the on-line environmental assessment tool developed by the Green Building Initiative as of December, 2004, that allows designers, property owners, and managers to evaluate and rate buildings against best sustainable building design practices and integrate principles of sustainable architecture at every stage of project delivery in order to design and construct buildings that will be energy-efficient and resource-efficient, achieve operational savings, and provide healthier environments in which to live and work; and

(19) "LEED" means the building rating systems developed on or after January 1, 2005, by the United States Green Building Council that allow designers, property owners, and managers to evaluate and rate buildings against best sustainable building design and practices and to integrate principles of sustainable architecture at every stage of project delivery in order to design and construct buildings that will be energy-efficient and resource-efficient using a whole-building approach in five (5) key areas of human and environmental health:

(a) Sustainable site development;

(b) Water savings;

(c) Energy efficiency;

(d) Material selection; and

(e) Environmental quality.

➔Section 2. KRS 56.772 is repealed and reenacted to read as follows:

The General Assembly finds and declares it to be the public policy of the Commonwealth to maximize the use of energy efficiency measures in the construction, renovation, and maintenance of buildings owned or leased by the Commonwealth. In furtherance of this policy, the cabinet shall administer an energy efficiency program, to be known as the Energy Efficiency Program for State Government Buildings.

➔Section 3. KRS 56.774 is repealed and reenacted to read as follows:

(1) The Energy Efficiency Program for State Government Buildings shall provide for implementation of low cost/no cost energy conservation measures, engineering analyses, energy efficiency measures, building improvements, and monitoring of results for state-owned or state-leased buildings.

(2) Any engineering analysis conducted on a state-owned building shall assess the energy efficiency of the building and make recommendations for improving the efficient use of energy within the building. The analyses shall be performed by qualified engineers, architects, or other persons trained in energy efficiency who

may be employees of the cabinet or employed pursuant to KRS Chapter 45A, except that any engineers, architects or other persons trained in energy efficiency and retained under a guaranteed energy savings performance contract, shall not be subject to the provisions of KRS 45A.800 to 45A.835.

(3) Except as provided in subsection (5) of this section, measures to improve the energy efficiency of a state-owned building, which have an aggregate simple payback period of five (5) years or less, shall be implemented as general fund appropriations become available. No more than five percent (5%) of the cost of energy efficiency measures for a building may be utilized for monitoring the results.

(4) If general fund appropriations are available for energy efficiency improvements, the cabinet shall prioritize projects among the various state-owned buildings to determine which projects shall be implemented to best utilize the available funding.

(5) If general fund appropriations are unavailable, energy efficiency measures for a state-owned building may be financed by other means. These other means include but are not limited to guaranteed energy savings performance contracts as defined under KRS 56.770 entered into pursuant to KRS 45A.085 and KRS 45A.045(10). Guaranteed energy savings performance contracts shall not be subject to the provisions of KRS 45A.800 to 45A.835. These energy efficiency measures shall not be limited to those that have an aggregate simple payback period of five (5) years or less, but shall result in reasonable economic benefit to the Commonwealth. Ownership of the energy efficiency measures shall be transferred to the Commonwealth upon completion of the guaranteed energy savings performance contract or as otherwise agreed upon in the contract. Savings from the implementation of the energy efficiency measures under the guaranteed energy savings performance contract shall be used to satisfy the obligations under the guaranteed energy savings performance contract and to repay the cost of the other means used to finance the energy efficiency measures, and may be used to repay

expenses incurred by the cabinet to reimburse the cabinet for expenses related to the guaranteed energy savings performance contract, including but not limited to staff time for monitoring, overseeing, and managing the project. Notwithstanding KRS 45.229, remaining savings shall remain in the state agency account and shall not lapse. All savings projected under a guaranteed energy savings performance contract shall be guaranteed to the Commonwealth.

(6) The savings in reduced expenditures that are specified as payment sources shall be documented in the guaranteed energy savings performance contract. Savings shall be determined by using one (1) of the measurement and verification methodologies listed in the United States Department of Energy's "International Performance Measurement and Verification Protocol." If specific data limitations or documented unique characteristics of the project prevent use of the "International Performance Measurement and Verification Protocol," an alternative method that is compatible shall be adopted upon documentation and approval of the secretary of the cabinet.

➔Section 4. KRS 56.775 is repealed and reenacted to read as follows:

To improve energy efficiency throughout state government, the cabinet and universities that manage their own capital construction projects under KRS 164A.580 shall:

(1) Beginning July 1, 2009, require that all construction or renovation of public buildings for which fifty percent (50%) or more of the total capital cost is paid by the Commonwealth shall be designed and constructed, or renovated, to meet the high-performance building standards established in KRS 56.777. This subsection applies to all projects that have not entered the design phase prior to January 1, 2009;

(2) Require that all building leases entered into by the Commonwealth or any of its agencies on and after July 1, 2018, shall meet the high-performance building standards. From July 15, 2008 and prior to July 1, 2018, a building that meets the high-performance building standards established in this section shall be given a

preference in the state leasing process over other buildings that do not meet the high-performance building standards; and

(3) Incorporate ENERGY STAR-qualified products in state agency procurements to the extent economically feasible using a life-cycle cost analysis.

➔Section 5. KRS 56.777 is repealed and reenacted to read as follows:

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

(2) The committee shall consist of fifteen (15) members and shall include:

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

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

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

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

(e) A representative of the Governor's Office of Energy Policy designated by the executive director; and

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

1. The design and construction industry involved in public works contracting;
2. The Kentucky Chapter of the U. S. Green Building Council;
3. The University of Kentucky College of Design;
4. The Kentucky Forest Industries Association;
5. The Kentucky Society of the American Institute of Architects;
6. The American Society of Heating, Refrigerating, and Air-Conditioning Engineers; and
7. The Home Builders Association of Kentucky;

8. The Associated General Contractors of Kentucky;

9. The West Kentucky Construction Association; and

10. The Kentucky Manufactured Housing Institute.

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

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

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

(6) The committee shall:

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

1. Standards and benchmarks developed under existing high-performance building programs, including the ENERGY STAR rating system, Green Globes rating system, and Leadership in Energy and Environmental Design (LEED) Green Building rating system; and

2. Standards and guidelines developed and adopted by the U.S. Green Building Council, the American Society of Heating, Refrigerating and Air-Conditioning Engineers, and the Illuminating Engineering Society of North America partnership concerning the design of sustainable buildings to balance environmental responsibility, resource efficiency, occupant comfort and well-being, and community sensitivity;

(b) Assist the cabinet in the review of state building projects to ensure that building performance and efficiency are maximized to the extent economically feasible using a life-cycle cost analysis;

(c) Assist the cabinet in developing a process of documentation of the attainment of high-performance building standards; and

(d) Assist the cabinet in conducting an ongoing professional development program for state and local building designers, construction companies, school districts, building managers, and the general public on high-performance building design, construction, maintenance, and operation.

(7) Prior to the implementation of KRS 56.770 to 56.784, the cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement this section. The cabinet shall consider the recommendations made by the High-Performance Buildings Advisory Committee pursuant to subsection (6) of this section and shall establish the criteria for the high-performance building standards and the benchmarks by which the high-performance building standards will be measured. At a minimum, the cabinet shall:

(a) Include the standards for site selection and management, water efficiency, energy conservation, waste reduction, material and resource use, and indoor air quality; and

(b) Require that each high-performance building be designed, constructed, or renovated so that it is capable of being rated as an ENERGY STAR building in accordance with the criteria and rating system adopted by the United States Environmental Protection Agency and in effect at the time the building is designed or, in the case of leased buildings, at the time the lease is entered into on or after July 1, 2018.

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

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

to 149.355;

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

(c) Renewable energy sources.

➔Section 6. KRS 56.776 is repealed and reenacted to read as follows:

The cabinet, with the assistance of the Governor's Office of Energy Policy, shall institute an energy audit training program to identify energy saving techniques for state-owned building maintenance staff. Additional programs shall be developed to educate state employees and other building occupants on energy awareness and practices to reduce energy use in state-owned buildings. Local government employees may be included in training and educational programs.

➔Section 7. KRS 56.778 is repealed and reenacted to read as follows:

The cabinet shall require persons submitting bids or plans for state-owned buildings to be constructed or substantially renovated after July 15, 1996, to include within those bids or plans life-cycle energy cost analyses. The cabinet shall consider those life-cycle cost analyses when evaluating competing bids or plans.

➔Section 8. KRS 56.782 is repealed and reenacted to read as follows:

The cabinet shall report on or before October 15, 2008, and on or before every October 15 thereafter to the Legislative Research Commission on progress made to maximize the use of energy-efficiency measures in state government. The Legislative Research Commission shall transmit the report to the appropriate interim joint committees and to the General Assembly when it convenes. The report shall include but not be limited to:

(1) A summary of initiatives undertaken by the cabinet during the reporting period to promote adoption of low cost/no cost energy-efficiency measures, including employee training efforts;

(2) A summary of energy-efficiency measures installed and energy improvements made during the reporting period;

(3) Energy consumption and expenditure data for facilities owned or leased by state government and any documented savings made as a result of energy-efficiency measures and improvements;

(4) Status report on the number of buildings newly constructed, renovated, or leased in accordance with the high-performance building standards required under KRS 56.777 and the amount of savings realized based upon a life-cycle cost analysis;

(5) Any efforts made during the reporting period to promote acquisition of energy-efficient products pursuant to KRS 45A.045(12) and the amount of savings expected to be realized in the first year of operation from the purchase of ENERGY STAR-qualified products pursuant to KRS 56.775;

(6) Any recommendations for future funding of energy improvements or other measures needed to assure energy efficiency in state government; and

(7) Any improvements in energy efficiency planned or realized through the use of the LEED rating system, the Green Globes rating system, ENERGY STAR-qualified products, and guaranteed energy savings performance contracts.

➔Section 9. KRS 56.783 is repealed and reenacted to read as follows:

(1) A special fund in the State Treasury is hereby created which shall be known as the energy efficiency in state government buildings revolving loan fund. The fund shall be used to provide financial assistance to state government agencies for the purposes of KRS 56.770 to 56.784.

(2) The fund may receive state appropriations, gifts, grants, and federal funds and shall include earnings from the investment of moneys in the fund. Any fund balance at the close of the fiscal year shall not lapse but shall carry forward to the next fiscal year and shall remain available solely for the purposes of this section.

(3) Administration of this fund shall be the responsibility of the cabinet. The cabinet shall establish terms and conditions for loans from the fund including the application and repayment process. The cabinet shall establish and implement fiscal

controls and accounting periods for payments received and disbursements made by the fund and for fund balances at the beginning and end of each accounting period.

(4) All repayments of loans made under this section shall be paid into the fund. Balances, or portions thereof, in the fund shall not revert to the general fund.

➔Section 10. KRS 56.784 is repealed and reenacted to read as follows:

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

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

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

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

(b) Any public corporation as defined by KRS 45.750(2)(c) or as created under the Kentucky Revised Statutes as a governmental agency and instrumentality of the Commonwealth that manages its capital construction program.

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

(5) The secretary shall report all authorized guaranteed energy savings performance

contracts to the Capital Projects and Bond Oversight Committee for its review.

➔Section 11. KRS 141.435 is repealed and reenacted to read as follows:

As used in KRS 141.435 to 141.437:

(1) "Active solar space-heating system" means a system that:

(a) Consists of solar energy collectors that collect and absorb solar radiation combined with electric fans or pumps to transfer and distribute that solar heat;

(b) May include an energy storage space-heating system to provide heat when the sun is not shining; and

(c) Is installed by a certified installer;

(2) "Certified installer" means an installer who has satisfied the professional certification standards established by the North American Board of Certified Energy Practitioners (NABCEP) and who has been certified as a NABCEP Certified Solar PV Installer or a NABCEP Certified Solar Thermal Installer;

(3) "Combined active solar space-heating and water-heating system" means a system that meets the requirements of both an active solar space-heating system and a solar water-heating system and is installed by a certified installer;

(4) "Commonwealth" means the Commonwealth of Kentucky;

(5) "Dwelling unit" includes a manufactured home as defined in KRS 100.348;

(6) "Energy-efficient interior lighting system" means an interior lighting system that meets the maximum reduction in lighting power density requirements for the federal energy efficient commercial building deduction under 26 U.S.C. sec. 179D, as in effect December 31, 2007;

(7) "Energy-efficient heating, cooling, ventilation, or hot water system" means a heating, cooling, ventilation, or hot water system that meets the requirements for the federal energy-efficient commercial building deduction under 26 U.S.C. sec. 179D, as in effect December 31, 2007;

(8) "Energy-efficient windows and storm doors" means windows and storm doors that

are:

(a) ENERGY STAR-labeled; and

(b) Certified by the National Fenestration Rating Council as meeting the North-Central U.S. climate zone performance standards for U-factor (nonsolar heat conductance), solar heat gain coefficient, air leakage, visible-light transmittance, and condensation resistance;

(9) "ENERGY STAR" shall have the same meaning as in KRS 56.770;

(10) "Installed cost" means the following, less any discounts, rebates, sales tax, installation-assistance credits, name-referral allowances, or other similar reductions:

(a) The purchase cost of equipment, components, and associated design; and

(b) Labor costs properly allocable to the on-site preparation, assembly, and original installation of the property, including piping or wiring to interconnect such property to the dwelling unit or commercial property;

(11) "Passive solar space-heating system" means a system that:

(a) Takes advantage of the warmth of the sun through the use of design features such as large south-facing windows and materials in the floors or walls that absorb warmth during the day and release that warmth at night;

(b) Includes one (1) or more of the following designs:

1. Direct gain which stores and slowly releases heat energy collected from the sun shining directly into the building and warming materials such as tile or concrete;

2. Indirect gain which uses materials that are located between the sun and the living space such as a wall to hold, store, and release heat; or

3. Isolated gain which collects warmer air from an area that is remote from the living space, such as a sunroom attached to a house, and the warmer air flows naturally to the rest of the house; and

(c) Meets the guidelines and technical requirements for passive solar design

established by administrative regulation pursuant to KRS 141.436(7);

(12) "Qualified energy property" means the following property that meets the performance, quality, and certification standards of and that would have been eligible for the federal tax credit for residential energy property expenditures under 26 U.S.C. sec. 25C, as it existed on December 31, 2007:

(a) An electric heat pump water heater;

(b) An electric heat pump;

(c) A closed loop geothermal heat pump;

(d) An open loop geothermal heat pump;

(e) A direct expansion (DX) geothermal heat pump;

(f) A central air conditioner;

(g) A natural gas, propane, or oil furnace or hot water heater;

(h) A hot water boiler including outdoor wood-fired boiler units; or

(i) An advanced main air circulating fan;

(13) "Solar photovoltaic system" means a system for electricity generation that:

(a) Includes solar photovoltaic panels, structural attachments, electrical wiring, inverters for converting direct current output to alternating current, and appropriate controls and safety measures for output monitoring;

(b) Meets the requirements of Article 690 of the National Electrical Code;

(c) Uses solar photovoltaic panels and inverters that are rated and listed by Underwriters Laboratories; and

(d) Is installed by a certified installer;

(14) "Solar water-heating system" means a system that:

(a) Uses solar-thermal energy to heat water;

(b) 1. Is an indirect pressurized glycol system that uses propylene glycol; or

2. Is an indirect drainback system that uses distilled water or propylene glycol;

(c) Uses OG-100 solar thermal collectors that are:

1. Certified by the Solar Rating and Certification Corporation; and

2. Covered by a manufacturer's warranty of not less than five (5) years;

(d) Is installed by a certified installer; and

(e) Is warranted by the certified installer for a period of not less than two (2) years;

(15) "Upgraded insulation" means insulation with the following R-value ratings:

(a) Attic insulation rated R-38 or higher;

(b) Exterior wall, crawl space, and basement exterior wall insulation rated R-13 or higher; and

(c) Floor insulation rated R-19 or higher; and

(16) "Wind turbine" or "wind machine" means a turbine or machine used for generating electricity that:

(a) Is certified as meeting the United States Wind Industry Consensus Standards developed by the American Wind Energy Association in partnership with the United States Department of Energy;

(b) Is covered by a manufacturer's warranty of not less than five (5) years;

(c) Is in compliance with all relevant building codes, height restriction variances, other special code requirements, and zoning ordinances;

(d) Has been installed in accordance with all building codes and all permits were received prior to the start of construction and installation;

(e) Is in compliance with all applicable Federal Aviation Administration regulations;

(f) Meets all requirements of Article 705 of the National Electrical Code for electrical components and installations; and

(g) Is rated and listed by Underwriters Laboratories.

➔Section 12. KRS 141.436 is repealed and reenacted to read as follows:

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

1. The taxpayer's principal place of residence; or

2. A single-family or multifamily residential rental unit.

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

1. Upgraded insulation, not to exceed one hundred dollars ($100);

2. Energy-efficient windows and storm doors, not to exceed two hundred fifty dollars ($250); or

3. Qualified energy property, not to exceed two hundred fifty dollars ($250).

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

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

(b) The tax credit shall equal:

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

a. An active solar space-heating system;

b. A passive solar space-heating system;

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

d. A solar water-heating system; and

e. A wind turbine or wind machine; or

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

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

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

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

b. A single-family residential rental unit; or

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

a. A multifamily residential rental unit; or

b. Commercial property;

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

1. An energy-efficient interior lighting system; and

2. An energy-efficient heating, cooling, ventilation, or hot water system.

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

1. An energy-efficient interior lighting system, not to exceed five hundred dollars ($500) per taxpayer; and

2. An energy-efficient heating, cooling, ventilation, or hot water system, not to exceed five hundred dollars ($500) per taxpayer.

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

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

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

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

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

(7) The department shall establish, by administrative regulation, the guidelines and technical requirements for items that are eligible for the tax credits provided under subsection (2) of this section, including but not limited to requirements for capacity, siting, plumbing, collector mountings, and pressurization. The department shall enlist the assistance, cooperation, and recommendations of the Governor's Office of Energy Policy and the Kentucky Pollution Prevention Center at the University of Louisville in determining those guidelines and technical requirements and may enlist their assistance in evaluating the eligibility of credits taken under this section.

(8) On or before December 1, 2010, and on or before every December 1 thereafter, the department shall report to the Legislative Research Commission the total number

and gross amount of each type of tax credit claimed on returns processed during the fiscal year ending prior to the December reporting date.

➔Section 13. KRS 141.437 is repealed and reenacted to read as follows:

(1) As used in this section:

(a) "ENERGY STAR home" means any single-family residence that qualifies for and receives the ENERGY STAR label under the ENERGY STAR Program administered by the United States Environmental Protection Agency; and

(b) "ENERGY STAR manufactured home" means a manufactured home as defined in KRS 100.348 that meets the ENERGY STAR label under the ENERGY STAR Program administered by the United States Environmental Protection Agency.

(2) For taxable years beginning after December 31, 2008, and before January 1, 2016, there is hereby created a nonrefundable credit against the tax imposed by KRS 141.040, and KRS 141.0401, with the ordering of credits as provided in KRS 141.0205 if a taxpayer:

(a) Builds a new ENERGY STAR home located in the Commonwealth for use as a principal place of residence; or

(b) Sells a new ENERGY STAR manufactured home to a buyer who uses that home as a principal place of residence in the Commonwealth.

(3) The tax credit shall equal:

(a) Eight hundred dollars ($800) if the taxpayer builds an ENERGY STAR home; or

(b) Four hundred dollars ($400) if the taxpayer sells an ENERGY STAR manufactured home.

(4) The tax credit provided under this section shall apply in the tax year in which the taxpayer completes construction of the ENERGY STAR home or sells the ENERGY STAR manufactured home.

(5) The tax credit provided in this section shall not apply if:

(a) The tax credit has been previously taken by another taxpayer on the same ENERGY STAR home or ENERGY STAR manufactured home; or

(b) The taxpayer has taken the energy efficiency tax credits provided in KRS 141.436.

(6) The department may request verification of the ENERGY STAR label placed on the home, documentation that the buyer is using the home as a principal place of residence, and any other information that the department determines is necessary to verify the tax credits taken.

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

➔Section 14. KRS 141.0205 is repealed and reenacted to read as follows:

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

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

(a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);

2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;

(b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;

(c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

(d) The health insurance credit permitted by KRS 141.062;

(e) The tax paid to other states credit permitted by KRS 141.070;

(f) The credit for hiring the unemployed permitted by KRS 141.065;

(g) The recycling or composting equipment credit permitted by KRS 141.390;

(h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel and renewable diesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025;

(o) The clean coal incentive credit permitted by KRS 141.428;

(p) The ethanol credit permitted by KRS 141.4242;

(q) The cellulosic ethanol credit permitted by KRS 141.4244;

(r) The energy efficiency credits permitted by KRS 141.436; and

(s) The railroad maintenance and improvement credit permitted by KRS 141.385.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The credit permitted by KRS 141.066;

(c) The tuition credit permitted by KRS 141.069;

(d) The household and dependent care credit permitted by KRS 141.067; and

(e) The new home credit permitted by KRS 141.388.

(3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350;

(b) The individual estimated tax payment credit permitted by KRS 141.305;

(c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);

(d) The certified rehabilitation credit permitted by KRS 141.382(1)(b); and

(e) The film industry tax credit allowed by KRS 141.383.

(4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.

(5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:

(a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;

(b) The certified rehabilitation credit permitted by KRS 171.397(1)(a);

(c) The health insurance credit permitted by KRS 141.062;

(d) The unemployment credit permitted by KRS 141.065;

(e) The recycling or composting equipment credit permitted by KRS 141.390;

(f) The coal conversion credit permitted by KRS 141.041;

(g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;

(h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;

(i) The coal incentive credit permitted under KRS 141.0405;

(j) The research facilities credit permitted under KRS 141.395;

(k) The employer GED incentive credit permitted under KRS 151B.127;

(l) The voluntary environmental remediation credit permitted by KRS 141.418;

(m) The biodiesel and renewable diesel credit permitted by KRS 141.423;

(n) The environmental stewardship credit permitted by KRS 154.48-025;

(o) The clean coal incentive credit permitted by KRS 141.428;

(p) The ethanol credit permitted by KRS 141.4242;

(q) The cellulosic ethanol credit permitted by KRS 141.4244;

(r) The energy efficiency credits permitted by KRS 141.436;

(s) The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;

(t) The railroad maintenance and improvement credit permitted by KRS 141.385; and

(u) The railroad expansion credit permitted by KRS 141.386.

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:

(a) The corporation estimated tax payment credit permitted by KRS 141.044;

(b) The certified rehabilitation credit permitted by KRS 141.382(1)(b); and

(c) The film industry tax credit allowed in KRS 141.383.

➔Section 15. KRS 151.720 is repealed and reenacted to read as follows:

The Kentucky River Authority is authorized and empowered to:

(1) Construct, reconstruct, provide for the major maintenance, or repair the locks and dams on the Kentucky River and all real and personal property pertaining thereto, as well as maintain the channel;

(2) Acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or otherwise, the fee simple title to or any acceptable lesser interest in any real or

personal property and by lease or other conveyance, contract for the right to use and occupy any real or personal property selected in the discretion of the authority as constituting necessary, desirable, or acceptable sites to fulfill its statutory authority and power;

(3) Lease its real or personal property to other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons as the authority deems necessary to carry out the purposes of this section;

(4) Sell or otherwise dispose of its real or personal property in accordance with KRS 56.463 and 45A.045;

(5) Collect water use fees from all facilities using water from the Kentucky River basin, except those facilities using water primarily for agricultural purposes. Facilities charged such a fee may pass on all or any part of the fee;

(6) Issue revenue bonds in accordance with KRS 151.730;

(7) Employ persons to carry out the authority's responsibilities with revenue from the water use fees, including an executive director who shall serve at the pleasure of the authority;

(8) Contract for services with other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons to perform its duties;

(9) Promulgate administrative regulations providing for clean water, which shall not be less stringent than the state and federal regulations for clean water;

(10) Exercise all other powers necessary to perform its public purpose to implement and enforce the plans developed by the authority pursuant to this section and KRS 151.727 and 151.728, and to enforce administrative regulations promulgated by the authority. The long-range water resource plan and drought response plan shall be implemented for the basin upon the direction of the authority;

(11) Develop comprehensive plans for the management of the Kentucky River within the

basin, including a long-range water resource plan and a drought response plan. Each county within the basin shall develop a long-range water resource plan and submit it to the authority. The authority, after consultation with the Environmental and Public Protection Cabinet, shall develop a unified long-range water resource plan for the basin. The unified long-range water resource plan shall be implemented over short-range and long-range time periods. The short-range plan shall be for a period of six (6) years and the long-range plan shall be for a period of twenty (20) years. The authority shall conduct a public hearing on the plan prior to its adoption and amend the plan as appropriate based on the comments received. The Environmental and Public Protection Cabinet shall review the draft unified plan and provide comment during the public comment period concerning the consistency of the plan with the state requirements under KRS Chapters 224 and 151. A drought response plan for the basin shall be developed by the authority and shall be coordinated with the Environmental and Public Protection Cabinet to assure consistency with KRS Chapters 224 and 151, and this plan shall be implemented for the basin upon the direction of the authority;

(12) Develop and promote a plan for the protection and use of groundwater within the basin. Administrative regulations may be promulgated implementing the plan, and these regulations shall not be less stringent than state and federal regulations protecting groundwater;

(13) Promote private investment in the installation of hydroelectric generating units on all existing constructed and reconstructed Kentucky River dams under the jurisdiction of the authority, by developing a standard lease, establishing reasonable financial responsibility requirements, verifying that the proposed installation of the hydroelectric unit will not adversely affect the structural integrity of the dam, and adopting a schedule of reasonable fees for water used in the generation of hydroelectric power;

(14) Develop recreational areas within the basin. These recreational areas may be operated and funded by the state Department of Parks, Kentucky State Nature Preserves Commission, or other governmental entity as specifically authorized or permitted within the biennial executive budget. There is hereby created the Kentucky River Park to be located as determined by the authority;

(15) Utilize funds provided for recreational purposes within the biennial executive budget for major or minor maintenance if the authority certifies to the secretary of the Finance and Administration Cabinet that a significant need exists for the repairs and no other funds are available for the maintenance;

(16) Coordinate the Kentucky River basin water resources activities among state agencies;

(17) Report quarterly on all of its activities to the legislative Committee on Appropriations and Revenue;

(18) Receive reports from state agencies on litigation concerning the Kentucky River, which agencies are hereby directed to report to the authority;

(19) Credit to the authority any income derived from the interest earned on the investment of the water use fees collected, which shall be available for the authority's expenditure; and

(20) Accomplish the watershed management mission of the authority, which is to fulfill the provisions of this section for the Kentucky River basin, the boundary of which shall be defined by a hydrologic map promulgated in an administrative regulation.

➔Section 16. KRS 160.325 is repealed and reenacted to read as follows:

(1) In an effort to reduce the rising energy costs that are straining school budgets, on or before January 1, 2010, each board of education shall enroll in the Kentucky Energy Efficiency Program that is offered by the Kentucky Pollution Prevention Center at the University of Louisville in order to obtain information regarding the potential energy savings for every board-owned and board-operated facility.

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

(3) On or before December 1, 2011, and on or before December 1 of each year thereafter, the Kentucky Pollution Prevention Center shall file a report for the preceding fiscal year with the Governor's Office of Energy Policy and the Legislative Research Commission. The report shall include:

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

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

(c) The amount and disposition of grants provided by the Governor's Office of Energy Policy and any state appropriations for support of the Kentucky Energy Efficiency Program.

➔Section 17. KRS 158.808 is repealed and reenacted to read as follows:

(1) Subject to the availability of funds, the Kentucky Department of Education and the Department for Workforce Investment shall establish an energy technology career track program. The purpose of the program is to provide grants to school districts to develop and implement an energy technology engineering career track across middle and high schools within the district. Program components may include but not be limited to career exploration and counseling, strategies to increase the rigor of instruction in pertinent core content areas, strategies to link core content to an energy technology career focus, professional development for teachers, and cooperative learning opportunities with industry and postsecondary institutions.

(2) The Kentucky Board of Education shall promulgate administrative regulations for the administration of the energy technology career track program. The Kentucky Department of Education shall administer the program, approve grant recipients,

and distribute the funds to local school districts.

➔Section 18. KRS 278.285 is repealed and reenacted to read as follows:

(1) The commission may determine the reasonableness of demand-side management plans proposed by any utility under its jurisdiction. Factors to be considered in this determination include, but are not limited to, the following:

(a) The specific changes in customers' consumption patterns which a utility is attempting to influence;

(b) The cost and benefit analysis and other justification for specific demand-side management programs and measures included in a utility's proposed plan;

(c) A utility's proposal to recover in rates the full costs of demand-side management programs, any net revenues lost due to reduced sales resulting from demand-side management programs, and incentives designed to provide positive financial rewards to a utility to encourage implementation of cost-effective demand-side management programs;

(d) Whether a utility's proposed demand-side management programs are consistent with its most recent long-range integrated resource plan;

(e) Whether the plan results in any unreasonable prejudice or disadvantage to any class of customers;

(f) The extent to which customer representatives and the Office of the Attorney General have been involved in developing the plan, including program design, cost recovery mechanisms, and financial incentives, and if involved, the amount of support for the plan by each participant, provided however, that unanimity among the participants developing the plan shall not be required for the commission to approve the plan;

(g) The extent to which the plan provides programs which are available, affordable, and useful to all customers; and

(h) Next-generation residential utility meters that can provide residents with

amount of current utility usage, its cost, and can be capable of being read by the utility either remotely or from the exterior of the home.

(2) A proposed demand-side management mechanism including:

(a) Recover the full costs of commission-approved demand-side management programs and revenues lost by implementing these programs;

(b) Obtain incentives designed to provide financial rewards to the utility for implementing cost-effective demand-side management programs; or

(c) Both of the actions specified

may be reviewed and approved by the commission as part of a proceeding for approval of new rate schedules initiated pursuant to KRS 278.190 or in a separate proceeding initiated pursuant to this section which shall be limited to a review of demand-side management issues and related rate-recovery issues as set forth in subsection (1) of this section and in this subsection.

(3) The commission shall assign the cost of demand-side management programs only to the class or classes of customers which benefit from the programs. The commission shall allow individual industrial customers with energy intensive processes to implement cost-effective energy efficiency measures in lieu of measures approved as part of the utility's demand-side management programs if the alternative measures by these customers are not subsidized by other customer classes. Such individual industrial customers shall not be assigned the cost of demand-side management programs.

(4) Home energy assistance programs may be part of a demand-side management program. In considering a home energy assistance program, the commission shall only utilize the criteria set forth in subsections (1)(f) and (3) of this section.

➔Section 19. KRS 152.713 is repealed and reenacted to read as follows:

(1) For purposes of this section, "renewable energy" has the same meaning as in KRS 154.20-400.

(2) The Center for Renewable Energy Research and Environmental Stewardship is hereby created and attached to the Governor's Office of Energy Policy for administrative purposes. The Governor's Office of Energy Policy shall provide consultation, coordination services, technical assistance, and staff support to the board of directors created in subsection (4) of this section, on an as-needed basis, and perform other necessary administrative functions until the center is deemed fully operational. The executive director of the office or his or her designee shall coordinate the development of the center and act as the chair of the board of directors created in subsection (4) of this section until the board is established and is operational.

(3) The Center for Renewable Energy Research and Environmental Stewardship shall:

(a) Provide leadership, research, support, and policy development in renewable energy;

(b) Advance the goal of renewable energy;

(c) Promote technologies, practices, and programs that increase efficiency in energy utilization in homes, businesses, and public buildings;

(d) Emphasize energy policies that would result in cost-conscious, responsible development of Kentucky's energy resources and a commitment to environmental quality;

(e) Promote partnerships among the state's postsecondary education institutions, private industry, and nonprofit organizations to actively pursue federal research and development resources that are dedicated to renewable energy;

(f) Promote the continued development of public-private partnerships dedicated to promoting energy efficiency through education and outreach;

(g) Establish research priorities with approval of the board of directors created in subsection (4) of this section, relating to renewable energy, and develop procedures and processes for awarding research grants to eligible recipients as

defined by the board and to the extent that funding is available;

(h) Collaborate with the Governor's Office of Energy Policy to avoid duplication of efforts, provide appropriate data and information, and support the implementation of Kentucky's comprehensive energy strategy; and

(i) Carry out other activities to further the efficient and environmentally responsible use of renewable energy.

(4) (a) There is hereby created a governing board of directors to provide policy direction, establish a strategic research agenda and operating policies, and provide financial and operational oversight for the Center for Renewable Energy Research and Environmental Stewardship. The initial board shall be appointed within sixty (60) days following July 15, 2008.

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

1. One (1) member to represent the Governor's Office of Energy Policy as designated by its executive director;
2. Three (3) members representing postsecondary education interests who shall be appointed by the Governor;
3. One (1) member to be designated by the governing body of the Kentucky Science and Technology Corporation;
4. One (1) member from an energy conservation organization who shall be appointed by the Governor;
5. The secretary of the Economic Development Cabinet or the secretary's designee;
6. One (1) member who shall be a recognized consumer advocate to be appointed by the Governor;
7. Three (3) members to represent companies that are focused on renewable energy who shall be appointed by the Governor;
8. One (1) member who shall represent environmental interests to be

appointed by the Governor; and

9. One (1) member who shall be selected to represent local government interests to be appointed by the Governor.

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

(5) The board shall:

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

(b) Meet at least quarterly;

(c) Select a chair and co-chair annually who may be reelected, not to exceed three (3) consecutive terms;

(d) Establish working groups or subcommittees of the board as the board determines is needed;

(e) Establish qualifications and job descriptions, set the compensation and benefits, and employ staff as it determines necessary to carry out its responsibilities under this section; and

(f) Provide an annual program and financial report to the Legislative Research Commission within ninety (90) days of the close of each fiscal year.

➔Section 20. KRS 42.580 is repealed and reenacted to read as follows:

As used in KRS 42.580 to 42.588:

(1) "Cabinet" means the Finance and Administration Cabinet;

(2) "Demand-side management" has the same meaning as in KRS 278.010;

(3) "Energy audit" has the same meaning as in KRS 56.770;

(4) "Energy-efficient heating, cooling, ventilation, or hot water system" has the same meaning as in KRS 141.435;

(5) "Energy-efficient interior lighting system" has the same meaning as in KRS 141.435;

(6) "Energy-efficient windows and storm doors" has the same meaning as in KRS 141.435;

(7) "Engineered demand-side management project" means a project undertaken to reduce the amount of energy consumed in an existing structure, including but not limited to:

(a) Energy-efficient heating, cooling, ventilation, or hot water systems;

(b) Energy-efficient interior lighting systems;

(c) Energy-efficient windows and storm doors;

(d) Qualified energy property;

(e) Upgraded insulation;

(f) Solar water-heating systems; and

(g) Any other energy efficiency measures that will reduce energy costs, including those that will use solar power, either active or passive;

(8) "Private sector building" means a building owned by a private retail, commercial, or industrial business;

(9) "Public sector building" means a building owned by the Commonwealth of Kentucky, any public university of the Commonwealth, or any public community college of the Commonwealth;

(10) "Qualified energy property" has the same meaning as in KRS 141.435;

(11) "Simple payback period" has the same meaning as in KRS 56.770;

(12) "Solar water-heating system" has the same meaning as in KRS 141.435; and

(13) "Upgraded insulation" has the same meaning as in KRS 141.435.

➔Section 21. KRS 42.582 is repealed and reenacted to read as follows:

(1) There is established in the cabinet the Kentucky Bluegrass Turns Green Program for the purposes of:

(a) Concentrating on energy demand-side management in private and public sector buildings;

(b) Generating savings to taxpayers and the Commonwealth;

(c) Allowing for continued economic development;

(d) More efficiently using the Commonwealth's precious natural resources; and

(e) Establishing the Commonwealth as a benchmark state for demand-side management efforts.

(2) The Kentucky Blue Grass Turns Green Program shall consist of the bluegrass turns green public sector grant fund established in KRS 42.584 and the bluegrass turns green private sector loan fund established in KRS 42.586.

➔Section 22. KRS 42.584 is repealed and reenacted to read as follows:

(1) (a) The bluegrass turns green public sector grant fund is created as a trust and agency fund. The fund shall be administered by the cabinet and shall consist of:

1. Proceeds from grants, contributions, appropriations, or other moneys made available for purposes of the trust and agency fund; and

2. Funds derived from the bond issuance authorized under 2008 Ky. Acts ch. 139, sec. 27.

(b) Notwithstanding KRS 45.229, fund amounts not expended at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year. Any interest earnings of the trust and agency fund shall become part of the trust and agency fund and shall not lapse.

(2) Trust and agency fund moneys shall be used by the cabinet to provide grants to the public sector for engineered demand-side management projects in public sector buildings. The cabinet shall not award more than one (1) grant per public university campus or public community college campus within an eighteen (18) month period.

(3) To be eligible for a grant under this section, the cost of a proposed engineered demand-side management project shall be at least five thousand dollars ($5,000) and shall not exceed one million five hundred thousand dollars ($1,500,000) per

project.

(4) Beginning July 1, 2009, and ending June 30, 2013, the simple payback period for an approved engineered demand-side management project shall be no more than five (5) years. Beginning July 1, 2013, the cabinet may consider a simple payback period of no more than twelve (12) years.

(5) Moneys in the grant fund are hereby appropriated for the purposes set forth in subsection (2) of this section.

(6) The cabinet shall not approve an applicant for a grant under this section, unless the applicant:

(a) Agrees to undergo and pay for an energy audit to establish a baseline of energy consumption; and

(b) Meets all the requirements established in this section and any regulations promulgated thereunder.

➔Section 23. KRS 42.586 is repealed and reenacted to read as follows:

(1) (a) The bluegrass turns green private sector loan fund is created as a separate revolving fund. The fund shall be administered by the cabinet and shall consist of:

1. Proceeds from grants, contributions, appropriations, or other moneys made available for purposes of the revolving fund;
2. Loan repayments made by the private sector;
3. Funds derived from the bond issuance authorized under 2008 Ky. Acts ch. 139, sec. 28.

(b) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year. Any interest earnings of the fund shall become part of the revolving fund and shall not lapse.

(2) Revolving fund moneys shall be used by the cabinet to provide low-interest loans to

the private sector for engineered demand-side management projects in private sector buildings. The cabinet shall not have more than one (1) loan outstanding at a time to any private retail, commercial, or industrial business.

(3) To be eligible for a loan under this section, the cost of a proposed engineered demand-side management project shall be at least five thousand dollars ($5,000) and shall not exceed one million five hundred thousand dollars ($1,500,000) per project.

(4) Beginning July 1, 2009, and ending June 30, 2013, the simple payback period for an approved engineered demand-side management project shall be no more than five (5) years. Beginning July 1, 2013, the cabinet may consider a simple payback period of no more than twelve (12) years.

(5) The loans provided under this section shall be subject to the prime interest rate minus one percent (1%).

(6) Moneys in the fund are hereby appropriated for the purposes set forth in subsection (2) of this section.

(7) The cabinet shall not approve an applicant for a loan under this section, unless the applicant:

(a) Can demonstrate that the applicant has no outstanding liabilities with the Commonwealth;

(b) Can demonstrate that the applicant has a positive payment history with the applicant's electricity provider for the preceding three (3) consecutive years;

(c) Agrees to undergo and pay for an energy audit to establish a baseline of energy consumption; and

(d) Meets all the requirements established in this section and any administrative regulations promulgated thereunder.

➔Section 24. KRS 42.588 is repealed and reenacted to read as follows:

(1) The cabinet shall, by administrative regulations promulgated in accordance with

KRS Chapter 13A:

(a) Develop a method to score applications for the bluegrass turns green private sector loan fund established in KRS 42.586 and the bluegrass turns green public sector grant fund established in KRS 42.584;

(b) Develop a list of companies qualified to perform energy audits for the purposes of determining a baseline of energy consumption and any subsequent projected energy cost savings for:

1. Private sector recipients of low-interest loans provided from the bluegrass turns green private sector loan fund established in KRS 42.586; and

2. Public sector recipients of grants awarded from the public sector turns green grant fund established in KRS 42.584; and

(c) Establish a process for the collection of loan payments from the private sector to repay amounts that were made available under the bluegrass turns green loan private sector fund.

The cabinet shall also promulgate any other administrative regulations necessary to administer the provisions of KRS 42.580 to 42.588.

(2) The cabinet shall report to the Governor and the Legislative Research Commission on or before November 1, 2009, and on or before each November 1 thereafter, the following for the bluegrass turns green private sector loan fund and the bluegrass turns green public sector grant fund for the immediately preceding fiscal year:

(a) The number of applicants;

(b) A description of the engineered demand-side management projects on which loans or grants were provided;

(c) The total amount loaned to the private sector and the total amount of grants provided to the public sector;

(d) The projected private sector energy cost savings;

(e) The projected public sector energy cost savings;

(f) The number of applicants and the amount of loan and grants for which funding was not available; and

(g) Based upon the energy audits performed, the amount of increased energy capacity realized.

➔Section 25. (1) There is hereby authorized $50,000,000 in bond funds in fiscal year 2010-2011 for the bluegrass turns green public grant fund for public engineered demand-side management projects. The bonds shall remain authorized unless a specific action of the General Assembly deauthorizes the bonds prior to sale.

(2) The principal amount authorized in subsection (1) of this section shall be increased by the amount necessary to capitalize and pay required principal and interest payments in fiscal year 2010-2011 and fiscal year 2011-2012.

(3) It is the intent of the General Assembly for this Act to reaffirm the bond authorization contained in 2008 Regular Session HB2/EN. As such, the General Assembly has repealed, reenacted, and amended 2008 Acts Chapter 139, Section 27. Since the bonds were not issued in fiscal year 2008-2009, the bond authorization has been amended to fiscal year 2010-2011.

➔Section 26. (1) There is hereby authorized $30,000,000 in bond funds in fiscal year 2010-2011 for bluegrass turns green private sector loan fund for private sector engineered demand-side management projects. The bonds shall remain authorized unless a specific action of the General Assembly deauthorizes the bonds prior to sale.

(2) The principal amount authorized in subsection (1) of this section shall be increased by the amount necessary to capitalize and pay required principal and interest payments in fiscal year 2010-2011 and fiscal year 2011-2012.

(3) It is the intent of the General Assembly for this Act to reaffirm the bond authorization contained in 2008 Regular Session HB2/EN. As such, the General Assembly has repealed, reenacted, and amended 2008 Acts Chapter 139, Section 27.

Since the bonds were not issued in fiscal year 2008-2009, the bond authorization has been amended to fiscal year 2010-2011.

➔Section 27. It is the intent of the General Assembly in repealing and reenacting KRS 56.770, 56.772, 56.774, 56.775, 56.776, 56.777, 56.778, 56.782, 56.783, 56.784, 141.435, 141.436, 141.437, 141.0205, 151.720, 160.325, 158.808, 278.285, 152.713, 42.580, 42.582, 42.584, 42.586, and 42.588 in Sections 1 to 24 of this Act is to affirm the amendments made to KRS 56.770, 56.772, 56.774, 56.775, 56.776, 56.777, 56.778, 56.782, 56.783, 56.784, 141.435, 141.436, 141.437, 141.0205, 151.720, 160.325, 158.808, 278.285, 152.713, 42.580, 42.582, 42.584, 42.586, and 42.588 in 2008 Ky. Acts ch.139.

➔Section 28. Sections 1 to 24 of this Act shall apply retroactively to July 15, 2008.

➔Section 29. To the extent that any provisions include in Sections 1 to 24 of this Act is considered new language, the provisions of KRS 446.145 requiring new language to be underlined are notwithstood.

➔Section 30. Whereas it is of vital importance for the Commonwealth to encourage the efficient use of energy, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon otherwise becoming law.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date Feb. 25, 2010