GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

HOUSE BILL NO. 80

AS ENACTED

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY L. Adler

1 AN ACT relating to government operations.

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

3 ➔Section 1. KRS 7A.010 is amended to read as follows:

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

5 (1) "Capital project" means:

6 (a) Any undertaking which is to be financed or funded through an appropriation
7 by the General Assembly of general fund, road fund, bond fund, trust and
8 agency fund, or federal fund moneys, where the expenditure is a capital
9 expenditure pursuant to statute or under standards prescribed by the
10 Legislative Research Commission under the authority of KRS Chapter 48;

11 (b) Any undertaking which is to be financed by a capital expenditure for use by
12 the state government or one of its departments or agencies, as defined in KRS
13 12.010 or enumerated in KRS 12.020, including projects related to the
14 construction or maintenance of roads, and including projects of institutions of
15 higher education as defined in KRS 164A.550(2);

16 (c) Any capital construction item, or any combination of capital construction
17 items necessary to make a building or utility installation complete, estimated
18 to cost***:***

19 ***1. a. In the case of institutions of higher education, one million***
20 ***dollars ($1,000,000) or more, regardless of the source of funds;***
21 ***and***

22 ***b. In the case of all other entities,*** six hundred thousand dollars
23 ($600,000) or more ***regardless of the source of funds;***~~[,]~~ or

24 ***2.*** Any item of movable equipment, estimated to cost two hundred
25 thousand dollars ($200,000) or more, regardless of the source of funds;

26 (d) Any lease of real property whose value is two hundred thousand dollars
27 ($200,000) or more;

1 (e) Any lease of an item of movable equipment if the total cost of the lease, lease-
2 purchase, or lease with an option to purchase is two hundred thousand dollars
3 ($200,000) or more; or
4 (f) Any new acquisition, upgrade, or replacement of an information technology
5 system estimated to cost:
6 ***1. In the case of institutions of higher education, one million dollars***
7 ***($1,000,000) or more; and***
8 ***2. In the case of all other entities,*** six hundred thousand dollars
9 ($600,000) or more.
10 (2) "Board" means the Capital Planning Advisory Board of the Kentucky General
11 Assembly created by KRS 7A.110.
12 (3) "Plan" means the state capital improvement plan provided for by KRS 7A.120.
13 (4) "State agency" means any department, commission, council, board, bureau,
14 committee, institution, legislative body, agency, government corporation, or other
15 entity of the executive, judicial, or legislative branch of the state government.
16 (5) "Information technology system" means any related computer or
17 telecommunications components that provide a functional system for a specific
18 business purpose and contain one (1) or more of the following:
19 (a) Hardware;
20 (b) Software, including application software, systems management software,
21 utility software, or communications software;
22 (c) Professional services for requirements analysis, system integration,
23 installation, implementation, or data conversion services; or
24 (d) Digital data products, including acquisition and quality control.
25 ➔Section 2. KRS 45.750 is amended to read as follows:
26 (1) As used in KRS 45.760 to 45.810:
27 (a) "Committee" means the Capital Projects and Bond Oversight Committee;[.]

1 (b) "Capital construction item" means:
2 1. The construction, reconstruction, acquisition, and structural maintenance
3 of buildings;
4 2. The installation of utility services, including roads and sewers;
5 3. The acquisition or improvement of real property;
6 4. The purchase and installation initially or during major renovation of
7 equipment, facilities, and furnishings of a permanent nature for
8 buildings;
9 5. The acquisition of any building to be occupied by any:
10 a. Subdivision of state government as defined in KRS 12.010 or
11 enumerated in KRS 12.020;
12 b. Municipal corporation which exercises its authority on a statewide
13 basis including, but not limited to, the Kentucky Employees
14 Retirement System, Teachers' Retirement System of the State of
15 Kentucky, Kentucky Higher Education Student Loan Corporation,
16 Kentucky Lottery Corporation, Kentucky Housing Corporation, or
17 any entity with a governing body whose membership is
18 substantially similar to the membership of the governing body of a
19 municipal corporation which exercises its authority on a statewide
20 basis; and
21 c. Institution of higher education;~~[.]~~
22 (c) "Lease" means any lease, lease-purchase, or lease with an option to purchase
23 of any real property space occupied by:
24 1. Any entity listed in paragraph (b)5. of this subsection;
25 2. The legislative branch; or
26 3. The judicial branch when leased from a private sector landlord;~~[.]~~
27 (d) "Equipment" means:

1. Any major item of equipment, including aircraft;
2. Any movable furnishing, appurtenance, or other equipment, necessary to make a building operable; and
3. Equipment purchased or otherwise acquired, or equipment to be purchased or otherwise to be acquired, under a lease or lease-purchase contract or agreement or an arrangement equivalent to a lease or lease-purchase contract or agreement;~~[.]~~

(e) "Information technology system" means any related computer or telecommunications components that provide a functional system for a specific business purpose and contain one (1) or more of the following:

1. Hardware;
2. Software, including application software, systems management software, utility software, or communications software;
3. Professional services for requirements analysis, system integration, installation, implementation, or data conversion services; or
4. Digital data products, including acquisition and quality control;~~[.]~~

(f) "Capital projects" means, regardless of the source of cash or other consideration:

1. Any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost:
   a. In the case of institutions of higher education, one million dollars ($1,000,000) or more in cash or other consideration; and
   b. In the case of all other entities, six hundred thousand dollars ($600,000) or more in cash or other consideration;
2. Any lease of real property space with an annual rental cost exceeding two hundred thousand dollars ($200,000);

1 3. The use allowance paid by the judicial branch for a real property space
2 pursuant to KRS 26A.090(2) and 26A.115 when the use allowance for
3 the space exceeds two hundred thousand dollars ($200,000) on an
4 annual basis;
5 4. Any item of equipment estimated to cost two hundred thousand dollars
6 ($200,000) or more in cash or other consideration;
7 5. Any lease of an item of movable equipment if the annual cost of the
8 lease is two hundred thousand dollars ($200,000) or more or if the total
9 cost of the lease-purchase or lease with an option to purchase is two
10 hundred thousand dollars ($200,000) or more; and
11 6. Any new acquisition, upgrade, or replacement of an information
12 technology system estimated to cost:
13 ***a. In the case of institutions of higher education, one million***
14 ***dollars ($1,000,000) or more in cash or other consideration; and***
15 ***b. In the case of all other entities,*** six hundred thousand dollars
16 ($600,000) or more in cash or other consideration;~~[.]~~
17 (g) "Emergency repair, maintenance, or replacement project" means the
18 maintenance, repair, or reconstruction of a capital construction project or the
19 maintenance, repair, or replacement of a major item of equipment that is:
20 1. Necessitated by injury or damage resulting from a disaster;
21 2. Necessary to maintain government operations or to prevent or minimize
22 injury or damage that could reasonably be expected to result from an
23 impending disaster; or
24 3. Necessitated by an unforeseen mechanical breakdown, electrical
25 breakdown, or structural defect that must be corrected to make a facility
26 or item of equipment usable;~~[.]~~
27 (h) "Disaster" means a fire, flood, tornado, other natural disaster, riot, enemy

1 attack, sabotage, explosion, power failure, energy shortage, transportation
2 emergency, or other man-caused disaster;~~[.]~~
3 (i) "Capital construction funds" means any funds used for capital construction,
4 including, but not limited to, appropriated capital construction funds, agency
5 funds, federal funds, private funds, or funds from any source held by an
6 agency for management or investment purposes***; and***~~[.]~~
7 (j) "Entity head" means the Chief Justice of the Supreme Court, the President of
8 the Senate and the Speaker of the House of Representatives, the secretary of
9 the Finance and Administration Cabinet, the president of any university which
10 complies with KRS 164A.585, 164A.595, and 164A.600, the board of trustees
11 of the Kentucky Employees Retirement System, the board of trustees of the
12 Teachers' Retirement System of the State of Kentucky, the board of directors
13 of the Kentucky Higher Education Student Loan Corporation, the board of
14 directors of the Kentucky Lottery Corporation, or the board of directors of the
15 Kentucky Housing Corporation.
16 (2) Except as provided in subsection (3) of this section, KRS 45.760 to 45.810 shall
17 apply to capital projects and bonds for use by:
18 (a) The state government;
19 (b) One of its departments or agencies, as defined in KRS 12.010 or enumerated
20 in KRS 12.020;
21 (c) A municipal corporation which exercises its authority on a statewide basis,
22 including but not limited to the Kentucky Employees Retirement System,
23 Teachers' Retirement System of the State of Kentucky, Kentucky Higher
24 Education Student Loan Corporation, Kentucky Lottery Corporation, and
25 Kentucky Housing Corporation; and
26 (d) Institutions of higher education.
27 (3) KRS 45.760 to 45.810 shall not apply to:

1 (a) Capital projects or bonds used directly in or for the construction or
2 maintenance of roads, including but not limited to bulldozers, graders, earth
3 movers, and real estate purchased for rights-of-way; and
4 (b) Political subdivisions, except for those defined in KRS 12.010, enumerated in
5 KRS 12.020, or created as a municipal corporation which exercises its
6 authority on a statewide basis including, but not limited to, the Kentucky
7 Employees Retirement System, Teachers' Retirement System of the State of
8 Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky
9 Lottery Corporation, Kentucky Housing Corporation, or any entity with a
10 governing body whose membership is substantially similar to the membership
11 of the governing body of a municipal corporation which exercises its authority
12 on a statewide basis. However, the provisions of KRS 45.750 to 45.810 shall
13 not apply to acquisition or maintenance of any building or land which is
14 purchased as a legal investment by any of the state retirement systems, which
15 is not to be occupied by the retirement system, and which is financed solely
16 with those assets of the retirement system used for investment purposes.
17 ➔Section 3. KRS 141.010 is amended to read as follows:
18 As used in this chapter, unless the context requires otherwise:
19 (1) "Commissioner" means the commissioner of the Department of Revenue;
20 (2) "Department" means the Department of Revenue;
21 (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December
22 31, ***2015***[~~2013~~], exclusive of any amendments made subsequent to that date, other
23 than amendments that extend provisions in effect on December 31, ***2015***[~~2013~~], that
24 would otherwise terminate, and as modified by KRS 141.0101;
25 (4) "Dependent" means those persons defined as dependents in the Internal Revenue
26 Code;
27 (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal

1 Revenue Code;
2 (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal
3 Revenue Code;
4 (7) "Individual" means a natural person;
5 (8) "Modified gross income" means the greater of:
6 (a) Adjusted gross income as defined in Section 62 of the Internal Revenue Code
7 of 1986, including any subsequent amendments in effect on December 31 of
8 the taxable year, and adjusted as follows:
9 1. Include interest income derived from obligations of sister states and
10 political subdivisions thereof; and
11 2. Include lump-sum pension distributions taxed under the special
12 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
13 (b) Adjusted gross income as defined in subsection (10) of this section and
14 adjusted to include lump-sum pension distributions taxed under the special
15 transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
16 (9) "Gross income," in the case of taxpayers other than corporations, means "gross
17 income" as defined in Section 61 of the Internal Revenue Code;
18 (10) "Adjusted gross income," in the case of taxpayers other than corporations, means
19 gross income as defined in subsection (9) of this section minus the deductions
20 allowed individuals by Section 62 of the Internal Revenue Code and as modified by
21 KRS 141.0101 and adjusted as follows, except that deductions shall be limited to
22 amounts allocable to income subject to taxation under the provisions of this chapter,
23 and except that nothing in this chapter shall be construed to permit the same item to
24 be deducted more than once:
25 (a) Exclude income that is exempt from state taxation by the Kentucky
26 Constitution and the Constitution and statutory laws of the United States and
27 Kentucky;

1 (b) Exclude income from supplemental annuities provided by the Railroad
2 Retirement Act of 1937 as amended and which are subject to federal income
3 tax by Public Law 89-699;
4 (c) Include interest income derived from obligations of sister states and political
5 subdivisions thereof;
6 (d) Exclude employee pension contributions picked up as provided for in KRS
7 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and
8 161.540 upon a ruling by the Internal Revenue Service or the federal courts
9 that these contributions shall not be included as gross income until such time
10 as the contributions are distributed or made available to the employee;
11 (e) Exclude Social Security and railroad retirement benefits subject to federal
12 income tax;
13 (f) Include, for taxable years ending before January 1, 1991, all overpayments of
14 federal income tax refunded or credited for taxable years;
15 (g) Deduct, for taxable years ending before January 1, 1991, federal income tax
16 paid for taxable years ending before January 1, 1990;
17 (h) Exclude any money received because of a settlement or judgment in a lawsuit
18 brought against a manufacturer or distributor of "Agent Orange" for damages
19 resulting from exposure to Agent Orange by a member or veteran of the
20 Armed Forces of the United States or any dependent of such person who
21 served in Vietnam;
22 (i) 1. For taxable years ending prior to December 31, 2005, exclude the
23 applicable amount of total distributions from pension plans, annuity
24 contracts, profit-sharing plans, retirement plans, or employee savings
25 plans.
26 The "applicable amount" shall be:
27 a. Twenty-five percent (25%), but not more than six thousand two

hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

2. For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten dollars ($41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

3. As used in this paragraph:

a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus,

1 pension, or profit-sharing plan of a public or private employer for
2 the exclusive benefit of employees or their beneficiaries and
3 includes plans qualified or unqualified under Section 401 of the
4 Internal Revenue Code and individual retirement accounts as
5 defined in Section 408 of the Internal Revenue Code;
6 (j) 1. a. Exclude the portion of the distributive share of a shareholder's net
7 income from an S corporation subject to the franchise tax imposed
8 under KRS 136.505 or the capital stock tax imposed under KRS
9 136.300; and
10 b. Exclude the portion of the distributive share of a shareholder's net
11 income from an S corporation related to a qualified subchapter S
12 subsidiary subject to the franchise tax imposed under KRS
13 136.505 or the capital stock tax imposed under KRS 136.300.
14 2. The shareholder's basis of stock held in a S corporation where the S
15 corporation or its qualified subchapter S subsidiary is subject to the
16 franchise tax imposed under KRS 136.505 or the capital stock tax
17 imposed under KRS 136.300 shall be the same as the basis for federal
18 income tax purposes;
19 (k) Exclude, to the extent not already excluded from gross income, any amounts
20 paid for health insurance, or the value of any voucher or similar instrument
21 used to provide health insurance, which constitutes medical care coverage for
22 the taxpayer, the taxpayer's spouse, and dependents, or for any person
23 authorized to be provided excludable coverage by the taxpayer pursuant to the
24 federal Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-
25 148, or the Health Care and Education Reconciliation Act of 2010 Pub. L. No.
26 111-152, during the taxable year. Any amounts paid by the taxpayer for health
27 insurance that are excluded pursuant to this paragraph shall not be allowed as

1 a deduction in computing the taxpayer's net income under subsection (11) of
2 this section;
3 (l) Exclude income received for services performed as a precinct worker for
4 election training or for working at election booths in state, county, and local
5 primary, regular, or special elections;
6 (m) Exclude any amount paid during the taxable year for insurance for long-term
7 care as defined in KRS 304.14-600;
8 (n) Exclude any capital gains income attributable to property taken by eminent
9 domain;
10 (o) Exclude any amount received by a producer of tobacco or a tobacco quota
11 owner from the multistate settlement with the tobacco industry, known as the
12 Master Settlement Agreement, signed on November 22, 1998;
13 (p) Exclude any amount received from the secondary settlement fund, referred to
14 as "Phase II," established by tobacco companies to compensate tobacco
15 farmers and quota owners for anticipated financial losses caused by the
16 national tobacco settlement;
17 (q) Exclude any amount received from funds of the Commodity Credit
18 Corporation for the Tobacco Loss Assistance Program as a result of a
19 reduction in the quantity of tobacco quota allotted;
20 (r) Exclude any amount received as a result of a tobacco quota buydown program
21 that all quota owners and growers are eligible to participate in;
22 (s) Exclude state Phase II payments received by a producer of tobacco or a
23 tobacco quota owner;
24 (t) Exclude all income from all sources for active duty and reserve members and
25 officers of the Armed Forces of the United States or National Guard who are
26 killed in the line of duty, for the year during which the death occurred and the
27 year prior to the year during which the death occurred. For the purposes of this

1 paragraph, "all income from all sources" shall include all federal and state
2 death benefits payable to the estate or any beneficiaries; and
3 (u) For taxable years beginning on or after January 1, 2010, exclude all military
4 pay received by active duty members of the Armed Forces of the United
5 States, members of reserve components of the Armed Forces of the United
6 States, and members of the National Guard, including compensation for state
7 active duty as described in KRS 38.205;
8 (11) "Net income," in the case of taxpayers other than corporations, means adjusted
9 gross income as defined in subsection (10) of this section, minus:
10 (a) The deduction allowed by KRS 141.0202;
11 (b) Any amount paid for vouchers or similar instruments that provide health
12 insurance coverage to employees or their families;
13 (c) For taxable years beginning on or after January 1, 2010, the amount of
14 domestic production activities deduction calculated at six percent (6%) as
15 allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years
16 beginning before 2010; and
17 (d) 1. All the deductions allowed individuals by Chapter 1 of the Internal
18 Revenue Code as modified by KRS 141.0101 except:
19 a. Any deduction allowed by the Internal Revenue Code for state or
20 foreign taxes measured by gross or net income, including state and
21 local general sales taxes allowed in lieu of state and local income
22 taxes under the provisions of Section 164(b)(5) of the Internal
23 Revenue Code;
24 b. Any deduction allowed by the Internal Revenue Code for amounts
25 allowable under KRS 140.090(1)(h) in calculating the value of the
26 distributive shares of the estate of a decedent, unless there is filed
27 with the income return a statement that such deduction has not

1 been claimed under KRS 140.090(1)(h);
2 c. The deduction for personal exemptions allowed under Section 151
3 of the Internal Revenue Code and any other deductions in lieu
4 thereof;
5 d. For taxable years beginning on or after January 1, 2010, the
6 domestic production activities deduction allowed under Section
7 199 of the Internal Revenue Code;
8 e. Any deduction for amounts paid to any club, organization, or
9 establishment which has been determined by the courts or an
10 agency established by the General Assembly and charged with
11 enforcing the civil rights laws of the Commonwealth, not to afford
12 full and equal membership and full and equal enjoyment of its
13 goods, services, facilities, privileges, advantages, or
14 accommodations to any person because of race, color, religion,
15 national origin, or sex, except nothing shall be construed to deny a
16 deduction for amounts paid to any religious or denominational
17 club, group, or establishment or any organization operated solely
18 for charitable or educational purposes which restricts membership
19 to persons of the same religion or denomination in order to
20 promote the religious principles for which it is established and
21 maintained;
22 f. Any deduction directly or indirectly allocable to income which is
23 either exempt from taxation or otherwise not taxed under this
24 chapter;
25 g. The itemized deduction limitation established in 26 U.S.C. sec. 68
26 shall be determined using the applicable amount from 26 U.S.C.
27 sec. 68 as it existed on December 31, 2006; and

1 h. A taxpayer may elect to claim the standard deduction allowed by
2 KRS 141.081 instead of itemized deductions allowed pursuant to
3 26 U.S.C. sec. 63 and as modified by this section; and
4 2. Nothing in this chapter shall be construed to permit the same item to be
5 deducted more than once;
6 (12) "Gross income," in the case of corporations, means "gross income" as defined in
7 Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and
8 adjusted as follows:
9 (a) Exclude income that is exempt from state taxation by the Kentucky
10 Constitution and the Constitution and statutory laws of the United States;
11 (b) Exclude all dividend income received after December 31, 1969;
12 (c) Include interest income derived from obligations of sister states and political
13 subdivisions thereof;
14 (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal
15 covered by Section 631(c) of the Internal Revenue Code if the corporation
16 does not claim any deduction for percentage depletion, or for expenditures
17 attributable to the making and administering of the contract under which such
18 disposition occurs or to the preservation of the economic interests retained
19 under such contract;
20 (e) Include in the gross income of lessors income tax payments made by lessees
21 to lessors, under the provisions of Section 110 of the Internal Revenue Code,
22 and exclude such payments from the gross income of lessees;
23 (f) Include the amount calculated under KRS 141.205;
24 (g) Ignore the provisions of Section 281 of the Internal Revenue Code in
25 computing gross income;
26 (h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal
27 Revenue Code);

1 (i) Exclude any amount received by a producer of tobacco or a tobacco quota
2 owner from the multistate settlement with the tobacco industry, known as the
3 Master Settlement Agreement, signed on November 22, 1998;
4 (j) Exclude any amount received from the secondary settlement fund, referred to
5 as "Phase II," established by tobacco companies to compensate tobacco
6 farmers and quota owners for anticipated financial losses caused by the
7 national tobacco settlement;
8 (k) Exclude any amount received from funds of the Commodity Credit
9 Corporation for the Tobacco Loss Assistance Program as a result of a
10 reduction in the quantity of tobacco quota allotted;
11 (l) Exclude any amount received as a result of a tobacco quota buydown program
12 that all quota owners and growers are eligible to participate in;
13 (m) For taxable years beginning after December 31, 2004, and before January 1,
14 2007, exclude the distributive share income or loss received from a
15 corporation defined in subsection (24)(b) of this section whose income has
16 been subject to the tax imposed by KRS 141.040. The exclusion provided in
17 this paragraph shall also apply to a taxable year that begins prior to January 1,
18 2005, if the tax imposed by KRS 141.040 is paid on the distributive share
19 income by a corporation defined in subparagraphs 2. to 8. of subsection
20 (24)(b) of this section with a return filed for a period of less than twelve (12)
21 months that begins on or after January 1, 2005, and ends on or before
22 December 31, 2005. This paragraph shall not be used to delay payment of the
23 tax imposed by KRS 141.040; and
24 (n) Exclude state Phase II payments received by a producer of tobacco or a
25 tobacco quota owner;
26 (13) "Net income," in the case of corporations, means "gross income" as defined in
27 subsection (12) of this section minus:

1 (a) The deduction allowed by KRS 141.0202;
2 (b) Any amount paid for vouchers or similar instruments that provide health
3 insurance coverage to employees or their families;
4 (c) For taxable years beginning on or after January 1, 2010, the amount of
5 domestic production activities deduction calculated at six percent (6%) as
6 allowed in Section 199(a)(2) of the Internal Revenue Code for taxable years
7 beginning before 2010; and
8 (d) All the deductions from gross income allowed corporations by Chapter 1 of
9 the Internal Revenue Code and as modified by KRS 141.0101, except:
10 1. Any deduction for a state tax which is computed, in whole or in part, by
11 reference to gross or net income and which is paid or accrued to any
12 state of the United States, the District of Columbia, the Commonwealth
13 of Puerto Rico, any territory or possession of the United States, or to any
14 foreign country or political subdivision thereof;
15 2. The deductions contained in Sections 243, 244, 245, and 247 of the
16 Internal Revenue Code;
17 3. The provisions of Section 281 of the Internal Revenue Code shall be
18 ignored in computing net income;
19 4. Any deduction directly or indirectly allocable to income which is either
20 exempt from taxation or otherwise not taxed under the provisions of this
21 chapter, and nothing in this chapter shall be construed to permit the
22 same item to be deducted more than once;
23 5. Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of
24 the Internal Revenue Code);
25 6. Any deduction for amounts paid to any club, organization, or
26 establishment which has been determined by the courts or an agency
27 established by the General Assembly and charged with enforcing the

1 civil rights laws of the Commonwealth, not to afford full and equal
2 membership and full and equal enjoyment of its goods, services,
3 facilities, privileges, advantages, or accommodations to any person
4 because of race, color, religion, national origin, or sex, except nothing
5 shall be construed to deny a deduction for amounts paid to any religious
6 or denominational club, group, or establishment or any organization
7 operated solely for charitable or educational purposes which restricts
8 membership to persons of the same religion or denomination in order to
9 promote the religious principles for which it is established and
10 maintained;
11 7. Any deduction prohibited by KRS 141.205;
12 8. Any dividends-paid deduction of any captive real estate investment trust;
13 and
14 9. For taxable years beginning on or after January 1, 2010, the domestic
15 production activities deduction allowed under Section 199 of the
16 Internal Revenue Code;
17 (14) (a) "Taxable net income," in the case of corporations that are taxable in this state,
18 means "net income" as defined in subsection (13) of this section;
19 (b) "Taxable net income," in the case of corporations that are taxable in this state
20 and taxable in another state, means "net income" as defined in subsection (13)
21 of this section and as allocated and apportioned under KRS 141.120. A
22 corporation is taxable in another state if, in any state other than Kentucky, the
23 corporation is required to file a return for or pay a net income tax, franchise
24 tax measured by net income, franchise tax for the privilege of doing business,
25 or corporate stock tax;
26 (c) "Taxable net income," in the case of homeowners' associations as defined in
27 Section 528(c) of the Internal Revenue Code, means "taxable income" as

1 defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the
2 provisions of subsection (3) of this section, the Internal Revenue Code
3 sections referred to in this paragraph shall be those code sections in effect for
4 the applicable tax year; and
5 (d) "Taxable net income," in the case of a corporation that meets the requirements
6 established under Section 856 of the Internal Revenue Code to be a real estate
7 investment trust, means "real estate investment trust taxable income" as
8 defined in Section 857(b)(2) of the Internal Revenue Code, except that a
9 captive real estate investment trust shall not be allowed any deduction for
10 dividends paid;
11 (15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue
12 Code;
13 (16) "Taxable year" means the calendar year or fiscal year ending during such calendar
14 year, upon the basis of which net income is computed, and in the case of a return
15 made for a fractional part of a year under the provisions of this chapter or under
16 regulations prescribed by the commissioner, "taxable year" means the period for
17 which the return is made;
18 (17) "Resident" means an individual domiciled within this state or an individual who is
19 not domiciled in this state, but maintains a place of abode in this state and spends in
20 the aggregate more than one hundred eighty-three (183) days of the taxable year in
21 this state;
22 (18) "Nonresident" means any individual not a resident of this state;
23 (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal
24 Revenue Code;
25 (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal
26 Revenue Code;
27 (21) "Number of withholding exemptions claimed" means the number of withholding

1 exemptions claimed in a withholding exemption certificate in effect under KRS
2 141.325, except that if no such certificate is in effect, the number of withholding
3 exemptions claimed shall be considered to be zero;
4 (22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue
5 Code and includes other income subject to withholding as provided in Section
6 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
7 (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the
8 Internal Revenue Code;
9 (24) (a) For taxable years beginning before January 1, 2005, and after December 31,
10 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of
11 the Internal Revenue Code; and
12 (b) For taxable years beginning after December 31, 2004, and before January 1,
13 2007, "corporations" means:
14 1. "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue
15 Code;
16 2. S corporations as defined in Section 1361(a) of the Internal Revenue
17 Code;
18 3. A foreign limited liability company as defined in KRS 275.015;
19 4. A limited liability company as defined in KRS 275.015;
20 5. A professional limited liability company as defined in KRS 275.015;
21 6. A foreign limited partnership as defined in KRS 362.2-102(9);
22 7. A limited partnership as defined in KRS 362.2-102(14);
23 8. A limited liability partnership as defined in KRS 362.155(7) or in 362.1-
24 101(7) or (8);
25 9. A real estate investment trust as defined in Section 856 of the Internal
26 Revenue Code;
27 10. A regulated investment company as defined in Section 851 of the

1 Internal Revenue Code;
2 11. A real estate mortgage investment conduit as defined in Section 860D of
3 the Internal Revenue Code;
4 12. A financial asset securitization investment trust as defined in Section
5 860L of the Internal Revenue Code; and
6 13. Other similar entities created with limited liability for their partners,
7 members, or shareholders.
8 For purposes of this paragraph, "corporation" shall not include any publicly
9 traded partnership as defined by Section 7704(b) of the Internal Revenue Code
10 that is treated as a partnership for federal tax purposes under Section 7704(c)
11 of the Internal Revenue Code or its publicly traded partnership affiliates. As
12 used in this paragraph, "publicly traded partnership affiliates" shall include
13 any limited liability company or limited partnership for which at least eighty
14 percent (80%) of the limited liability company member interests or limited
15 partner interests are owned directly or indirectly by the publicly traded
16 partnership;
17 (25) "Doing business in this state" includes but is not limited to:
18 (a) Being organized under the laws of this state;
19 (b) Having a commercial domicile in this state;
20 (c) Owning or leasing property in this state;
21 (d) Having one (1) or more individuals performing services in this state;
22 (e) Maintaining an interest in a pass-through entity doing business in this state;
23 (f) Deriving income from or attributable to sources within this state, including
24 deriving income directly or indirectly from a trust doing business in this state,
25 or deriving income directly or indirectly from a single-member limited
26 liability company that is doing business in this state and is disregarded as an
27 entity separate from its single member for federal income tax purposes; or

1 (g) Directing activities at Kentucky customers for the purpose of selling them
2 goods or services.
3 Nothing in this subsection shall be interpreted in a manner that goes beyond the
4 limitations imposed and protections provided by the United States Constitution or
5 Pub. L. No. 86-272;
6 (26) "Pass-through entity" means any partnership, S corporation, limited liability
7 company, limited liability partnership, limited partnership, or similar entity
8 recognized by the laws of this state that is not taxed for federal purposes at the
9 entity level, but instead passes to each partner, member, shareholder, or owner their
10 proportionate share of income, deductions, gains, losses, credits, and any other
11 similar attributes;
12 (27) "S corporation" means "S corporation" as defined in Section 1361(a) of the Internal
13 Revenue Code;
14 (28) "Limited liability pass-through entity" means any pass-through entity that affords
15 any of its partners, members, shareholders, or owners, through function of the laws
16 of this state or laws recognized by this state, protection from general liability for
17 actions of the entity; and
18 (29) "Captive real estate investment trust" means a real estate investment trust as defined
19 in Section 856 of the Internal Revenue Code that meets the following requirements:
20 (a) 1. The shares or other ownership interests of the real estate investment trust
21 are not regularly traded on an established securities market; or
22 2. The real estate investment trust does not have enough shareholders or
23 owners to be required to register with the Securities and Exchange
24 Commission; and
25 (b) 1. The maximum amount of stock or other ownership interest that is owned
26 or constructively owned by a corporation equals or exceeds:
27 a. Twenty-five percent (25%), if the corporation does not occupy

1 property owned, constructively owned, or controlled by the real
2 estate investment trust; or
3 b. Ten percent (10%), if the corporation occupies property owned,
4 constructively owned, or controlled by the real estate investment
5 trust.
6 The total ownership interest of a corporation shall be determined by
7 aggregating all interests owned or constructively owned by a
8 corporation;
9 2. For the purposes of this paragraph:
10 a. "Corporation" means a corporation taxable under KRS 141.040,
11 and includes an affiliated group as defined in KRS 141.200, that is
12 required to file a consolidated return pursuant to the provisions of
13 KRS 141.200; and
14 b. "Owned or constructively owned" means owning shares or having
15 an ownership interest in the real estate investment trust, or owning
16 an interest in an entity that owns shares or has an ownership
17 interest in the real estate investment trust. Constructive ownership
18 shall be determined by looking across multiple layers of a
19 multilayer pass-through structure; and
20 (c) The real estate investment trust is not owned by another real estate investment
21 trust.
22 ➔Section 4. KRS 157.618 is amended to read as follows:
23 (1) The emergency and targeted investment fund is hereby created as a restricted fund
24 in the State Treasury, to be administered by the School Facilities Construction
25 Commission.
26 (2) (a) Notwithstanding KRS 45.229 or any other provision of the Kentucky Revised
27 Statutes, any appropriations to the School Facilities Construction Commission

1 that have not been expended at the end of a fiscal year shall not lapse but shall
2 be transferred to the emergency and targeted investment fund. The fund may
3 also receive other appropriations from the General Assembly and
4 reimbursements from local school districts.
5 (b) Notwithstanding KRS 45.229, amounts remaining in the emergency and
6 targeted investment fund at the end of a fiscal year shall not lapse but shall be
7 carried forward to the next fiscal year, to be used for the purposes set forth in
8 this section.
9 (3) Notwithstanding KRS 157.620 and 157.622, the commission may use moneys in the
10 fund to***:***
11 ***(a)*** Offer grants for the purposes of financing the construction and equipping of
12 new facilities, or the major renovation of current facilities, if a local school
13 district's facilities are:
14 ***1.***[~~(a)~~] Destroyed or severely damaged by an emergency. For the purposes
15 of this paragraph, "emergency" means a condition that arises from an
16 accident, catastrophe, or other unforeseen occurrence such as a fire,
17 storm, flood, or other event that involves unusual danger to the lives or
18 property of area residents; ***or***
19 ***2.***[~~(b)~~] Destroyed or severely damaged through a criminal or negligent
20 act***; or***
21 ***(b) Award a cash grant to a school district to assist in bringing the school up to***
22 ***code if:***
23 ***1. A school building is to be closed by a state or federal official or***
24 ***agency, including the state fire marshal or the Department for***
25 ***Environmental Protection; and***
26 ***2. The Kentucky Department of Education has declared the situation to***
27 ***be an emergency***[~~;~~

1 ~~(c) Rendered structurally unsound, hazardous, or uninhabitable as determined by~~
2 ~~local authorities or the commissioner of education; or~~
3 ~~(d) Reasonably expected to be rendered uninhabitable within the course of two (2)~~
4 ~~years as determined by local authorities or the commissioner of education~~].
5 (4) If a school district receives assistance from the commission under this section and
6 subsequently, as a result of litigation or insurance, receives funds for the original
7 facility, the school district shall reimburse the fund an amount equal to the amount
8 received pursuant to this section. If the litigation or insurance receipts are less than
9 the amount received under this section, the district shall reimburse the fund an
10 amount equal to the amount received as a result of litigation or insurance, less the
11 district's costs and legal fees in securing the judgment or payment.
12 (5) The commission, in cooperation with the department, shall promulgate
13 administrative regulations under KRS Chapter 13A establishing the process to apply
14 for and receive funds from the emergency and targeted investment fund.
15 (6) By October 1 of each year, the commission shall provide a report on the fund's
16 activities to the Legislative Research Commission.
17 ➔Section 5. KRS 157.621 is amended to read as follows:
18 (1) In addition to the levy required by KRS 157.440(1)(b) to participate in the Facilities
19 Support Program of Kentucky, local school districts that have made the levy
20 required by KRS 157.440(1)(b) are authorized to levy the following additional
21 equivalent rates to support debt service, new facilities, or major renovations of
22 existing school facilities, which levies shall not be subject to recall under any
23 provision of the Kentucky Revised Statutes, or to voter approval under the
24 provisions of KRS 157.440(2):
25 (a) 1. Prior to April 24, 2008, local school districts that have experienced
26 student population growth during a five (5) year period may levy an
27 additional five cents ($0.05) equivalent rate for debt service and new

1 facilities. The tax rate levied by the district under this provision shall not
2 be equalized by state funding, except as provided in paragraph (b) of this
3 subsection. Any levy imposed under this paragraph prior to April 24,
4 2008, by a local school district shall continue until removed by the local
5 school district.
6 2. A local school district shall meet the following criteria in order to levy
7 the tax provided in subparagraph 1. of this paragraph:
8 a. Growth of at least one hundred fifty (150) students in average daily
9 attendance and three percent (3%) overall growth for the five (5)
10 preceding years;
11 b. Bonded debt to the maximum capability of at least eighty percent
12 (80%) of capital outlay from the Support Education Excellence in
13 Kentucky funding program, all revenue from the local facility tax,
14 and all receipts from state equalization on the local facility tax;
15 c. Current student enrollment in excess of available classroom space;
16 and
17 d. A local school facility plan that has been approved by the
18 Kentucky Board of Education and certified to the School Facilities
19 Construction Commission.
20 (b) 1. In addition to the levy authorized by paragraph (a) of this subsection, a
21 local school district may levy an additional five cents ($0.05) equivalent
22 rate under the same terms and conditions established by paragraph (a) of
23 this subsection beginning in fiscal year 2003-2004 if the levy was made
24 prior to April 24, 2008, and if the local school district:
25 a. Levied the five cents ($0.05) equivalent rate authorized by
26 paragraph (a) of this subsection; and
27 b. Still meets the requirements established by paragraph (a)2. of this

1 subsection.
2 2. Any school district that imposes both the levy authorized by paragraph
3 (a) of this subsection and the additional levy authorized by subparagraph
4 1. of this paragraph shall receive equalization funding from the state for
5 the levy imposed by paragraph (a) of this subsection beginning in fiscal
6 year 2003-2004. Equalization shall be provided at one hundred fifty
7 percent (150%) of the statewide average per pupil assessment, subject to
8 the provision of funding by the General Assembly. Equalization funds
9 shall be used as provided in KRS 157.440(1)(b).
10 3. Any levy imposed under this paragraph prior to April 24, 2008, by a
11 local school district shall continue until removed by the local school
12 district.
13 (c) 1. A local school district that meets the following conditions may levy an
14 additional five cents ($0.05) equivalent rate on and after April 24, 2008:
15 a. The local school district is located in a county that will have more
16 students as a direct result of the new mission established for Fort
17 Knox by the Base Realignment and Closure (BRAC) 2005 issued
18 by the United States Department of Defense pursuant to the
19 Defense Base Closure and Realignment Act of 1990, Pub. L. No.
20 100-526, Part A of Title XXIX of 104 Stat. 1808, 10 U.S.C. sec.
21 2687 note; and
22 b. The commissioner of education has determined, based upon the
23 presentation of credible data, that the projected increased number
24 of students is sufficient to require new facilities or the major
25 renovation of existing facilities to accommodate the new students,
26 and has approved the imposition of the additional levy.
27 2. Any local school district that imposes both the levy authorized by

1 paragraph (a) of this subsection and the additional levy authorized by
2 subparagraph 1. of this paragraph, and that has not received equalization
3 funding under subsection (2) or (3) of this section, shall receive
4 equalization funding from the state for the levy imposed by paragraph
5 (a) of this subsection beginning in the fiscal year following the fiscal
6 year in which the levy authorized by subparagraph 1. of this paragraph is
7 imposed. Equalization shall be provided at one hundred fifty percent
8 (150%) of the statewide average per pupil assessment, subject to the
9 provision of funding by the General Assembly. Equalization funds shall
10 be used as provided in KRS 157.440(1)(b).
11 3. Any levy imposed under this paragraph by a local school district shall
12 continue until removed by the local school district.
13 (2) ***(a)*** Any local school district that, prior to ***the effective date of this Act***~~[April 24,~~
14 ~~2008]~~, levied an equivalent rate that:
15 ***1.***~~[(a)]~~ Was subject to recall at the time it was levied; and
16 ***2.***~~[(b)]~~ Included a rate of at least five cents ($0.05) equivalent rate for the
17 purpose of debt service for school construction or major renovation of
18 existing school facilities;
19 shall be eligible for retroactive equalization from the state for that levy at one
20 hundred fifty percent (150%) of the statewide average per pupil assessment
21 beginning in fiscal year 2003-2004, subject to the ***fiscal condition of the***
22 ***Commonwealth and the*** provision of funding by the General Assembly.
23 Equalization funds shall be used as provided in KRS 157.440(1)(b).
24 ***(b) It is the intent of the General Assembly that for levies described in this***
25 ***subsection that are imposed on or after the effective date of this Act,***
26 ***equalization funds, if provided by the General Assembly, shall terminate***
27 ***upon the earlier of June 30, 2038, or the date the bonds for the local school***

1 ***district supported by this equalization funding are retired. Equalization***
2 ***shall be subject to the fiscal condition of the Commonwealth and the***
3 ***provision of funding by the General Assembly.***
4 (3) Any local school district that:
5 (a) Levied an equivalent tax rate as of April 24, 2008, that included at least ten
6 cents ($0.10) that was devoted to building purposes, or that had debt service
7 corresponding to a ten cents ($0.10) equivalent rate;
8 (b) Did not receive equalized growth funding pursuant to subsection (1)(b)2. of
9 this section; and
10 (c) Has been approved by the commissioner of education;
11 shall be eligible for equalization from the state for that levy at one hundred fifty
12 percent (150%) of the statewide average per pupil assessment beginning in fiscal
13 year 2005-2006, subject to the provision of funding by the General Assembly.
14 Equalization funds shall be used as provided in KRS 157.440(1)(b). Equalization
15 funds shall be available to a local school district pursuant to this subsection until the
16 earlier of June 30, 2025, or the date the bonds for the local school district supported
17 by this equalization funding are retired.
18 (4) (a) Notwithstanding any other provision of this section, any local school district
19 receiving equalization funding ***prior to the effective date of this Act***[~~on April~~
20 ~~24, 2008~~], related to an equivalent rate levy described in subsection (1), (2),[
21 ~~or~~] (3)***, or (5)*** of this section shall continue to receive the equalization funding
22 related to the applicable equivalent rate levy, subject to the limitations
23 established by subsections (1), (2),[~~ and~~] (3)***, and (5)*** of this section, and
24 subject to the ***fiscal condition of the Commonwealth and the*** provision of
25 funding by the General Assembly, until amended by subsequent action of the
26 General Assembly. A local school district described in this paragraph shall not
27 be eligible to receive equalization for any additional equivalent rate levies

1 made by it on or after ***the effective date of this Act***[~~April 24, 2008~~].
2 (b) Notwithstanding any other provision of this section, any local school district
3 that has imposed an equivalent rate levy described in subsection (1)(a) or (b)
4 or (2) of this section ***prior to the effective date of this Act***[~~as of April 24,~~
5 ~~2008~~], that qualifies for equalization but that has not yet received equalization
6 funding shall be eligible for equalization funding as provided in subsection
7 (1)(a) or (b) or (2) of this section, subject to the provision of funding by the
8 General Assembly.
9 (c) On and after April 24, 2008, a local school district not included in paragraph
10 (a) or (b) of this subsection shall be prohibited from imposing an equivalent
11 rate levy under the provisions of subsection (1)(a) or (b) of this section, and
12 shall not be eligible for equalization funding under the provisions of this
13 section.
14 (d) On and after April 24, 2008, a local school district meeting the requirements
15 of subsection (1)(c) of this section may impose the levy authorized by
16 subsection (1)(c) of this section, and shall qualify for equalization as provided
17 in subsection (1)(c) of this section, subject to the provision of funding by the
18 General Assembly.
19 ***(5) (a) Any local school district that:***
20 ***1. Had school facilities classified as Category 5 on May 18, 2010, by the***
21 ***Kentucky Department of Education; and***
22 ***2. Levied an additional five cents ($0.05) equivalent tax rate prior to the***
23 ***effective date of this Act for debt service, new construction, and major***
24 ***renovation beyond the five cents ($0.05) equivalent tax rate required***
25 ***by KRS 157.440(1)(b), except as provided in paragraph (b) of this***
26 ***subsection;***
27 ***shall be eligible for equalization from the state for that levy at one hundred***

1 *fifty percent (150%) of the statewide average per pupil assessment*
2 *beginning in the fiscal year following the fiscal year in which the levy was*
3 *imposed. This levy shall be subject to the recall provisions of KRS 132.017.*
4 *(b) School districts that levied a five cents ($0.05) equivalent tax rate for debt*
5 *service, new construction, and major renovation, beyond the rate required*
6 *by KRS 157.440(1)(b) prior to May 18, 2010, shall not be required to levy an*
7 *additional tax to receive the equalization funds provided in paragraph (a) of*
8 *this subsection.*
9 *(c) If the school district utilizes the equalization funds to support a bond issue*
10 *for construction purposes, equalization funds shall be provided until the*
11 *earlier of twenty (20) years or date the bonds are retired.*
12 *(d) In the event that a school district receives funding pursuant to this*
13 *subsection to support construction of a new school facility and*
14 *subsequently, as a result of litigation, receives funding for the same facility*
15 *for which state funds were provided, that school district shall reimburse the*
16 *Commonwealth an amount equal to the amount provided under paragraph*
17 *(a) of this subsection. Any funds received in this manner shall be deposited*
18 *in the Budget Reserve Trust Fund Account established in KRS 48.705.*
19 ➔Section 6. KRS 158.070 is amended to read as follows:
20 (1) As used in this section:
21 (a) *"Election" has the same meaning as in KRS 121.015;*
22 *(b)* "Minimum school term" or "school term" means not less than one hundred
23 eighty-five (185) days composed of the student attendance days, teacher
24 professional days, and holidays;
25 *(c)*[~~(b)~~] "School calendar" means the document adopted by a local board of
26 education that establishes the minimum school term, student instructional
27 year, and days that school will not be in session;

1 *(d)*[~~(c)~~] "Student attendance day" means any day that students are scheduled to
2 be at school to receive instruction, and encompasses the designated start and
3 dismissal time;
4 *(e)*[~~(d)~~] "Student instructional year" means at least one thousand sixty-two
5 (1,062) hours of instructional time for students delivered on not less than one
6 hundred seventy (170) student attendance days; and
7 *(f)*[~~(e)~~] "Teacher professional day" means any day teachers are required to report
8 to work as determined by a local board of education, with or without the
9 presence of students.
10 (2) The local board of education, upon recommendation of the local school district
11 superintendent, shall annually adopt a school calendar for the upcoming school year
12 that establishes the opening and closing dates of the school term, beginning and
13 ending dates of each school month, student attendance days, and days on which
14 schools shall be dismissed. The local board may schedule days for breaks in the
15 school calendar that shall not be counted as a part of the minimum school term.
16 (3) (a) Each local board of education shall use four (4) days of the minimum school
17 term for professional development and collegial planning activities for the
18 professional staff without the presence of students pursuant to the
19 requirements of KRS 156.095. At the discretion of the superintendent, one (1)
20 day of professional development may be used for district-wide activities and
21 for training that is mandated by federal or state law. The use of three (3) days
22 shall be planned by each school council, except that the district is encouraged
23 to provide technical assistance and leadership to school councils to maximize
24 existing resources and to encourage shared planning.
25 (b) In addition to the four (4) days required under paragraph (a) of this subsection,
26 a minimum of two (2) hours of self-study review of suicide prevention
27 materials shall be required for all high school and middle school principals,

1 guidance counselors, and teachers each school year.

2 (c) A local board may approve a school's flexible professional development plan
3 that permits teachers or other certified personnel within a school to participate
4 in professional development activities outside the days scheduled in the school
5 calendar or the regularly scheduled hours in the school work day and receive
6 credit towards the four (4) day professional development requirement within
7 the minimum one hundred eighty-five (185) days that a teacher shall be
8 employed.

9 1. A flexible schedule option shall be reflected in the school's professional
10 development component within the school improvement plan or
11 consolidated plan and approved by the local board. Credit for approved
12 professional development activities may be accumulated in periods of
13 time other than full day segments.

14 2. No teacher or administrator shall be permitted to count participation in a
15 professional development activity under the flexible schedule option
16 unless the activity is related to the teacher's classroom assignment and
17 content area, or the administrator's job requirements, or is required by
18 the school improvement or consolidated plan, or is tied to the teacher's
19 or the administrator's individual growth plan. The supervisor shall give
20 prior approval and shall monitor compliance with the requirements of
21 this paragraph. In the case of teachers, a professional development
22 committee or the school council by council policy may be responsible
23 for reviewing requests for approval.

24 (d) The local board of each school district may use up to a maximum of four (4)
25 days of the minimum school term for holidays; provided, however, any
26 holiday which occurs on Saturday may be observed on the preceding Friday.

27 (e) Each local board may use two (2) days for planning activities without the

1 presence of students.
2 (f) Each local board may close schools for the number of days deemed necessary
3 for:
4 1. National or state emergency or mourning when proclaimed by the
5 President of the United States or the Governor of the Commonwealth of
6 Kentucky;
7 2. Local emergency which would endanger the health or safety of children;
8 and
9 3. Mourning when so designated by the local board of education and
10 approved by the Kentucky Board of Education upon recommendation of
11 the commissioner of education.
12 (4) (a) The Kentucky Board of Education, upon recommendation of the
13 commissioner of education, shall adopt administrative regulations governing
14 the use of student attendance days as a result of a local emergency, as
15 described in subsection (3)(f)2. of this section, and regulations setting forth
16 the guidelines and procedures to be observed for the approval of waivers from
17 the requirements of a student instructional year in subsection (1)(d) of this
18 section for districts that wish to adopt innovative instructional calendars, or
19 for circumstances that would create extreme hardship.
20 (b) If a local board of education amends its school calendar after its adoption due
21 to an emergency, it may lengthen or shorten any remaining student attendance
22 days by thirty (30) minutes or more, as it deems necessary, provided the
23 amended calendar complies with the requirements of a student instructional
24 year in subsection (1)(d) of this section. No student attendance day shall
25 contain more than seven (7) hours of instructional time unless the district
26 submitted and received approval from the commissioner of education for an
27 innovative alternative calendar.

1 (5) (a) ***1.*** In setting the school calendar, school may be closed for two (2)
2 consecutive days for the purpose of permitting professional school
3 employees to attend statewide professional meetings.
4 ***2.*** These two (2) days for statewide professional meetings may be
5 scheduled to begin with the first Thursday after Easter, or upon request
6 of the statewide professional education association having the largest
7 paid membership, the commissioner of education may designate
8 alternate dates.
9 ***3.*** If schools are scheduled to operate during days designated for the
10 statewide professional meeting, the school district shall permit
11 employees who are delegates to attend as compensated professional
12 leave time and shall employ substitute teachers in their absence.
13 ***4.*** The commissioner of education shall designate one (1) additional day
14 during the school year when schools may be closed to permit
15 professional school employees to participate in regional or district
16 professional meetings.
17 ***5.*** These three (3) days so designated for attendance at professional
18 meetings may be counted as a part of the minimum school term.
19 ***(b) 1. If any school in a district is used as a polling place, the*** school ***district***
20 shall be closed on the day of ***the***[~~a regular~~] election[~~ and on the day of a~~
21 ~~primary election~~], and those days may be used for professional
22 development activities, professional meetings, or parent-teacher
23 conferences.
24 ***2. A district may be open on the day of an election if no school in the***
25 ***district is used as a polling place.***
26 ***(c)***[~~(b)~~] All schools shall be closed on the third Monday of January in
27 observance of the birthday of Martin Luther King, Jr. Districts may:

1. Designate the day as one (1) of the four (4) holidays permitted under subsection (3)(d) of this section; or
2. Not include the day in the minimum school term specified in subsection (1) of this section.

(6) (a) The Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, shall be encouraged to schedule athletic competitions outside the regularly scheduled student attendance day.

(b) Beginning with the 2009-2010 school year, any member of a school-sponsored interscholastic athletic team who competes in a regional tournament or state tournament sanctioned by the Kentucky Board of Education, or the organization or agency designated by the board to manage interscholastic athletics, and occurring on a regularly scheduled student attendance day may be counted present at school on the date or dates of the competition, as determined by local board policy, for a maximum of two (2) days per student per year. The student shall be expected to complete any assignments missed on the date or dates of the competition.

(c) The school attendance record of any student for whom paragraph (b) of this subsection applies shall indicate that the student was in attendance on the date or dates of competition.

(7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its

1 students to participate in continuing education. The local policy shall set out the
2 conditions under which attendance will be required and any exceptions which are
3 provided. The Kentucky Board of Education shall promulgate administrative
4 regulations establishing criteria for the allotment of grants to local school districts
5 and shall include criteria by which the commissioner of education may approve a
6 district's request for a waiver to use an alternative service delivery option, including
7 providing services during the student attendance day on a limited basis. These
8 grants shall be allotted to school districts to provide instructional programs for
9 pupils who are identified as needing additional time to achieve the outcomes
10 defined in KRS 158.6451. A school district that has a school operating a model
11 early reading program under KRS 158.792 may use a portion of its grant money as
12 part of the matching funds to provide individualized or small group reading
13 instruction to qualified students outside of the regular classroom during the student
14 attendance day.
15 (9) Notwithstanding any other statute, each school term shall include no less than the
16 equivalent of the student instructional year in subsection (1)(d) of this section,
17 except that the commissioner of education may grant up to the equivalent of ten
18 (10) student attendance days for school districts that have an alternative instruction
19 plan approved by the commissioner of education for the use of alternative methods
20 of instruction, including virtual learning, on days when the school district is closed
21 for health or safety reasons, on nontraditional days, or on nontraditional time. The
22 district's plan shall demonstrate how teaching and learning in the district will not be
23 negatively impacted. Average daily attendance for purposes of Support Education
24 Excellence in Kentucky program funding during the student attendance days
25 granted shall be calculated in compliance with administrative regulations
26 promulgated by the Kentucky Board of Education.
27 (10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection

1 (2) of this section, a school district shall arrange bus schedules so that all buses
2 arrive in sufficient time to provide breakfast prior to the beginning of the student
3 attendance day. In the event of an unforeseen bus delay, the administrator of a
4 school that participates in the Federal School Breakfast Program may authorize up
5 to fifteen (15) minutes of the student attendance day if necessary to provide the
6 opportunity for children to eat breakfast not to exceed eight (8) times during the
7 school year within a school building.
8 (11) Notwithstanding any other statute to the contrary, the following provisions shall
9 apply to a school district that misses student attendance days due to emergencies,
10 including weather-related emergencies:
11 (a) A certified school employee shall be considered to have fulfilled the minimum
12 one hundred eighty-five (185) day contract with a school district under KRS
13 157.350 and shall be given credit for the purpose of calculating service credit
14 for retirement under KRS 161.500 for certified school personnel if:
15 1. State and local requirements under this section are met regarding the
16 equivalent of the number and length of student attendance days, teacher
17 professional days, professional development days, holidays, and days for
18 planning activities without the presence of students; and
19 2. The provisions of the district's school calendar to make up student
20 attendance days missed due to any emergency, as approved by the
21 Kentucky Department of Education when required, including but not
22 limited to a provision for additional instructional time per day, are met.
23 (b) Additional time worked by a classified school employee shall be considered as
24 equivalent time to be applied toward the employee's contract and calculation
25 of service credit for classified employees under KRS 78.615 if:
26 1. The employee works for a school district with a school calendar
27 approved by the Kentucky Department of Education that contains a

1 provision that additional instructional time per day shall be used to make
2 up full days missed due to an emergency;
3 2. The employee's contract requires a minimum six (6) hour work day; and
4 3. The employee's job responsibilities and work day are extended when the
5 instructional time is extended for the purposes of making up time.
6 (c) Classified employees who are regularly scheduled to work less than six (6)
7 hours per day and who do not have additional work responsibilities as a result
8 of lengthened student attendance days shall be excluded from the provisions
9 of this subsection. These employees may be assigned additional work
10 responsibilities to make up service credit under KRS 78.615 that would be
11 lost due to lengthened student attendance days.
12 ➔Section 7. KRS 224.50-868 is amended to read as follows:
13 (1) Until June 30, ***2018***[~~2016~~], a person purchasing a new motor vehicle tire in
14 Kentucky shall pay to the retailer a one dollar ($1) fee at the time of the purchase of
15 that tire. A new tire is a tire that has never been placed on a motor vehicle wheel
16 rim, but it is not a tire placed on a motor vehicle prior to its original retail sale or a
17 recapped tire. The term "motor vehicle" as used in this section shall mean "motor
18 vehicle" as defined in KRS 138.450. The fee shall not be subject to the Kentucky
19 sales tax.
20 (2) When a person purchases a new motor vehicle tire in Kentucky to replace another
21 tire, the tire that is replaced becomes a waste tire subject to the waste tire program.
22 The person purchasing the new motor vehicle tire shall be encouraged by the
23 retailer to leave the waste tire with the retailer or meet the following requirements:
24 (a) Dispose of the waste tire in accordance with KRS 224.50-856(1);
25 (b) Deliver the waste tire to a person registered in accordance with the waste tire
26 program; or
27 (c) Reuse the waste tire for its original intended purpose or an agricultural

1 purpose.
2 (3) A retailer shall report to the Department of Revenue on or before the twentieth day
3 of each month the number of new motor vehicle tires sold during the preceding
4 month and the number of waste tires received from customers that month. The
5 report shall be filed on forms and contain information as the Department of
6 Revenue may require. The retailer shall remit with the report ninety-five percent
7 (95%) of the fees collected for the preceding month and may retain a five percent
8 (5%) handling fee.
9 (4) A retailer shall:
10 (a) Accept from the purchaser of a new tire, if offered, for each new motor
11 vehicle tire sold, a waste tire of similar size and type; and
12 (b) Post notice at the place where retail sales are made that state law requires the
13 retailer to accept, if offered, a waste tire for each new motor vehicle tire sold
14 and that a person purchasing a new motor vehicle tire to replace another tire
15 shall comply with subsection (2) of this section. The notice shall also include
16 the following wording: "State law requires a new tire buyer to pay one dollar
17 ($1) for each new tire purchased. The money is collected and used by the state
18 to oversee the management of waste tires, including cleaning up abandoned
19 waste tire piles and preventing illegal dumping of waste tires."
20 (5) A retailer shall comply with the requirements of the recordkeeping system for waste
21 tires established by KRS 224.50-874.
22 (6) A retailer shall transfer waste tires only to a person who presents a letter from the
23 cabinet approving the registration issued under KRS 224.50-858 or a copy of a solid
24 waste disposal facility permit issued by the cabinet, unless the retailer is delivering
25 the waste tires to a destination outside Kentucky and the waste tires will remain in
26 the retailer's possession until they reach that destination.
27 (7) The cabinet shall, in conjunction with the Waste Tire Working Group, develop the

1 informational fact sheet to be made publicly available on the cabinet's Web site and
2 available in print upon request. The fact sheet shall identify ways to properly
3 dispose of the waste tire and present information on the problems caused by
4 improper waste tire disposal.
5 ➔Section 8. (1) Administrative Fee on Infrastructure for Economic
6 Development Fund Projects: A one-half of one percent administrative fee is authorized to
7 be paid to the Kentucky Infrastructure Authority for the administration of each project
8 funded by the Infrastructure for Economic Development Fund for Coal-Producing
9 Counties and the Infrastructure for Economic Development Fund for Tobacco Counties.
10 These administrative fees shall be paid, upon inception of the project, out of the fund
11 from which the project was allocated.
12 (2) Executive Agency Lobbyists Registration Fee: Notwithstanding KRS
13 11A.211(5), the registration fee paid shall be $500.
14 (3) Charges for Federal, State, and Local Audits: Any additional expenses
15 incurred by the Auditor of Public Accounts for required audits of Federal Funds shall be
16 charged to the government or agency that is the subject of the audit. Because the Auditor
17 of Public Accounts receives General Fund appropriations for audits of the statewide
18 systems of personnel and payroll, cash and investments, revenue collection, and the state
19 accounting system, any expenses incurred by the Auditor of Public Accounts for audits of
20 other state agencies shall be charged to the agency that is the subject of such audit. The
21 Auditor of Public Accounts shall maintain a record of all time and expenses for each
22 audit or investigation.
23 Any expenses incurred by the Auditor of Public Accounts for auditing individual
24 governmental entities when mandated by a legislative committee shall be charged to the
25 agency or entity receiving audit services.
26 (4) Personnel Board Operating Assessment: Each agency of the Executive Branch
27 with employees covered by KRS Chapter 18A shall be assessed each fiscal year the

1 amount required for the operation of the Personnel Board. The agency assessment shall be
2 determined by the Secretary of the Finance and Administration Cabinet based on the
3 authorized full-time positions of each agency on July 1 of each year of the biennium. The
4 Secretary of the Finance and Administration Cabinet shall collect the assessment.
5 (5) Water Withdrawal Fees: The water withdrawal fees imposed by the Kentucky
6 River Authority shall not be subject to state and local taxes. Notwithstanding KRS
7 151.710(10), Tier I water withdrawal fees shall be used to support the operations of the
8 Authority and for contractual services for water supply and quality studies.
9 (6) Pro Rata Assessment: The Personnel Cabinet shall collect a pro rata
10 assessment from all state agencies, in all three branches of government, and other
11 organizations that are supported by the System. Those collections shall be deposited and
12 retained in a Restricted Funds account within the Personnel Cabinet.
13 (7) Premium and Retaliatory Taxes: Notwithstanding KRS 304.17B-021(4)(d),
14 premium taxes collected under KRS Chapter 136 from any insurer and retaliatory taxes
15 collected under KRS 304.3-270 from any insurer shall be credited to the General Fund.
16 (8) Speed Title Procedure for Motor Vehicles: Notwithstanding KRS
17 186A.170(1)(b) and 601 KAR 9:200, sec. 2, (5) to the contrary, salvage or rebuilt titles
18 shall be processed through the speed title procedure when an electronic notification is
19 issued by a county clerk's office. The speed title fee provided in KRS 186A.130(3) shall
20 apply.
21 ➔Section 9. Assessment on Insurers: Notwithstanding KRS 304.17B-021 or any
22 other provision of the Kentucky Revised Statutes to the contrary, for insurers who offer
23 qualified health plans (QHPs), as defined in 42 U.S.C. sec. 18021, in the 2017 or 2018
24 plan year on the federal exchange in the individual market segment, the amount of the
25 assessment imposed by KRS 304.17B-021 on health benefit plan premiums written in the
26 individual market segment may be independently determined by the Department of
27 Insurance but shall not exceed the maximum set forth in KRS 304.17B-021.

1 ➔Section 10. Section 8 of this Act is effective for and applies to the fiscal year
2 beginning July 1, 2016, and ending June 30, 2017, and the fiscal year beginning July 1,
3 2017, and ending June 30, 2018, and shall expire at the end of June 30, 2018.
4 ➔Section 11. Section 9 of this Act is effective for and applies to the plan year
5 beginning January 1, 2017, and ending December 31, 2017, and the plan year beginning
6 January 1, 2018, and ending December 31, 2018, and shall expire at the end of December
7 31, 2018.
8 ➔Section 12. Whereas this Act applies to the balancing of the Executive Branch
9 Budget, an emergency is declared to exist, and this Act takes effect upon its passage and
10 approval by the Governor or upon its otherwise becoming a law.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 27 APRIL 2016