

CHAPTER 338**(HB 372)**

AN ACT relating to economic development and declaring an emergency.

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

Section 1. KRS 42.4588 is amended to read as follows:

- (1) There is established within the Kentucky Economic Development Finance Authority a Local Government Economic Development Program to consist of a system of grants to counties to attract new industry.
- (2) Grants obtained under this program shall be used for:
 - (a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the **secretary of** ~~commissioner of the Department for Coal County Development in~~ the Cabinet for Economic Development;
 - (b) Industrial development projects if the **secretary of** ~~commissioner of the Department for Coal County Development in~~ the Cabinet for Economic Development finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the **secretary of the Cabinet for Economic Development** ~~commissioner of the Department for Coal County Development~~; and
 - (c) Debt service for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for facilities approved by the **secretary of** ~~commissioner of the Department for Coal County Development in~~ the Cabinet for Economic Development under the provisions of subsection (3) of this section.
- (3) The **secretary of** ~~commissioner of the Department for Coal County Development in~~ the Cabinet for Economic Development may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the **secretary** ~~commissioner~~ finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities, but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The **secretary** ~~commissioner~~ may also approve privately-owned facilities for transient lodging and recreation where the **secretary** ~~commissioner~~ finds that the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants provided for in paragraphs (a), (b), and (c) of subsection (10) of this section shall be paramount in the case of lodging and recreational facilities.
- (4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.

- (5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the *secretary of*~~commissioner of the Department for Coal County Development in~~ the Cabinet for Economic Development finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.
- (6) An industrial development project may include legal, accounting, engineering, and marketing expenses for a regional industrial park, in addition to the activities set forth in subsection (11)(a) of this section.
- (7) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.
- (8) Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed the current biennium of the Commonwealth, and shall be limited to an amount not to exceed the amount estimated to be allocated to the applicant county or counties for the current biennium under the provisions of KRS 42.4592(1)(a) and (b).
- (9) Approval of grant applications shall be by the *secretary of*~~commissioner of the Department for Coal County Development in~~ the Cabinet for Economic Development. Award of grants shall be by the Kentucky Economic Development Finance Authority.
- (10) Criteria for approval of applications and the award of grants to be considered, if applicable, shall include:
 - (a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;
 - (b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;
 - (c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;
 - (d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;
 - (e) The needs of any industrial firm benefiting from the industrial development project;
 - (f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;
 - (g) The amount of capital made available to the facility by lenders and by the industrial firm; and
 - (h) The economic feasibility of the facility.
- (11) For purposes of this section:
 - (a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of

improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; and job development incentive grants;

- (b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section;
- (c) "Job development incentive grant" means an award to a county of funds from its account administered by the Kentucky Economic Development Finance Authority pursuant to KRS 42.4592(1)(a) and (b) for the use by the county to encourage job development for those industrial development projects located in that county which create at least twenty-five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant ~~shall be~~ limited to five thousand dollars (\$5,000) for each job created which fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars (\$10,000) per new job created. After a fiscal court has received authorization for the job development grant by the Kentucky Economic Development Finance Authority, the county, the industrial firm, and the Kentucky Economic Development Finance Authority shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:
 - 1. The industrial firm has made at least the minimum investment required;
 - 2. At least twenty-five (25) new full-time Kentucky jobs have been created at the project site by the industrial firm;
 - 3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;
 - 4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;
 - 5. Each employee hired for the project by the industrial firm shall have worked on a full-time basis at the minimum wages described in this section at least twelve

(12) full consecutive months at the site prior to any grant funds disbursement; and

6. No job created by the industrial firm after twenty-four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

If the county is satisfied the information provided is accurate and qualifies the industrial firm for the job development incentive grant as described in the agreement, it shall forward the certified information to the Department for Coal County Development, Cabinet for Economic Development which shall make the job development grant disbursement upon sufficient evidence that all terms of the agreement have been met; and

- (d) "Regional industrial park" means an industrial development project authorized for a grant award by the Kentucky Economic Development Finance Authority for a minimum of three (3) counties eligible for grant funds provided for in KRS 42.4592(1)(c), which coalition may include a county as approved under subsection (5) of this section.
- (12) Findings by the ~~secretary of the commissioner of the Department for Coal County Development in~~ the Cabinet for Economic Development, provided for in subsections (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties, the Governor, and the Legislative Research Commission.
- (13) By October 1 of each odd-numbered year, the ~~secretary of the commissioner of the Department for Coal County Development,~~ Cabinet for Economic Development shall provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.

Section 2. KRS 42.4585 is amended to read as follows:

- (1) A portion of each quarterly transfer of moneys provided for in KRS 42.4582 shall be transferred from the local government economic development fund into the local government economic assistance fund according to the following schedule:
- (a) Effective July 1, 1992, an amount equal to eighty percent (80%) of each quarterly transfer;
- (b) Effective July 1, 1993, an amount equal to sixty-six and seven-tenths percent (66.7%) of each quarterly transfer;
- (c) Effective July 1, 1994, an amount equal to forty-eight percent (48%) of each quarterly transfer; and
- (d) Effective July 1, 1995, and thereafter, an amount equal to twenty-four percent (24%) of each quarterly transfer.

The transfers shall be made quarterly.

- (2) The amount transferred annually from the local government economic development fund into the local government economic assistance fund under the provisions of subsection (1)

of this section shall *be* not ~~be~~ less than an amount equal to *fifteen*~~thirteen~~ percent ~~(15%)(13%)~~ of the severance and processing taxes on coal collected annually.

- (3) The quarterly calculation and transfer of funds pursuant to subsections (1) and (2) of this section shall be made only after the quarterly installment of the annual nineteen million dollars (\$19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission as required by KRS 342.122.

Section 3. KRS 65.680 is amended to read as follows:

As used in KRS 65.680 to 65.699:

- (1) *"Activation date" means the date established in the grant contract at any time in a two (2) year period after the date of approval of the grant contract by the economic development authority or the tourism development authority, as appropriate. The economic development authority or tourism development authority, as appropriate, may extend this two (2) year period to no more than four (4) years upon written application of the agency requesting the extension. To implement the activation date, the agency who is a party to the grant contract shall notify the economic development authority or the tourism development authority, as appropriate, the Revenue Cabinet, and other taxing districts that are parties to the grant contract when the implementation of the increment authorized in the grant contract shall occur;*
- (2) *"Agency" means an urban renewal and community development agency established under KRS Chapter 99; a development authority established under KRS Chapter 99; a nonprofit corporation established under KRS Chapter 58; an air board established under KRS 183.132 to 183.160; a local industrial development authority established under KRS 154.50-301 to 154.50-346; a riverport authority established under KRS 65.510 to 65.650; or a designated department, division, or office of a city or county;*
- (3) "Assessment" means the job development assessment fee authorized by KRS 65.6851, which the governing body may elect to impose throughout the development area;
- (4) *"Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant;*
- (5)~~(2)~~ "City" means any city or urban-county;
- (6)~~(3)~~ "Commencement date" means the date a development area is established, as provided in the ordinance creating the development area;
- (7) *"Commonwealth" means the Commonwealth of Kentucky;*
- (8)~~(4)~~ "County" means any county or charter county;
- (9)~~(5)~~ *"CPI" means the non-seasonally adjusted Consumer Price Index for all urban consumers, all items (base year computed for 1982 to 1984 equals one hundred (100)), published by the United States Department of Labor, Bureau of Labor Statistics;*
- (10) "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;

- (11)~~(6)~~ "Development area" means a contiguous geographic area, which may be within one (1) or more cities or counties, defined and created for economic development purposes by an ordinance of a city or county in which one (1) or more ~~economic development~~ projects are proposed to be located, *except that for any development area for which increments are to include revenues from the Commonwealth, the contiguous geographic area shall satisfy the requirements of Section 14 or 15 of this Act;*
- (12)~~(7)~~ "Economic development *authority*" *means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010*~~project" means any property, asset, or improvement certified by the governing body, which certification is conclusive as:~~
- ~~(a) Being for a public purpose;~~
 - ~~(b) Being for economic development purposes;~~
 - ~~(c) Being in or related to a development area; and~~
 - ~~(d) Having an estimated life or period of usefulness of one (1) year or more, including, but not limited to, real estate, buildings, personal property, equipment, furnishings, and site improvements and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of one (1) year or more;~~
- ~~(8) "Economic development purposes" means the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, or any combination thereof, which is determined by the governing body establishing the development area as contributing to economic development;~~
- ~~(9) "Financing agreement" means an agreement made between cities, counties, or a combination thereof providing for the release of increments under the authority of KRS 65.680 to 65.699];~~
- (13) *"Enterprise Zone" means an area designated by the Enterprise Zone Authority of Kentucky to be eligible for the benefits of KRS 154.45-010 to KRS 154.45-110;*
- (14)~~(10)~~ "Governing body" means the body possessing legislative authority in a city or county;
- (15) *"Grant contract" means:*
- (a) That agreement with respect to a development area established under Section 9 of this Act, by and among an agency and one (1) or more taxing districts other than the Commonwealth, by which a taxing district permits the payment to an agency of an amount equal to a portion of increments other than revenues from the Commonwealth received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area; or*
 - (b) That agreement, including with respect to a development area satisfying the requirements of Section 14 or 15 of this Act, a master agreement and addenda to the master agreement, by and among an agency, one (1) or more taxing districts, and the economic development authority or the tourism development authority, as appropriate, by which a taxing district permits the payment to an agency of an amount equal to a portion of increments received by it in return for the benefits accruing to the taxing district by reason of one (1) or more projects in a development area;*

- (16)~~(11)~~ "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more ~~economic development~~ projects in a development area, the payment of which is secured solely by a pledge of increments or by a pledge of increments and other sources of payment that are otherwise permitted by law to be pledged or used as a source of payment of the bonds or notes;
- (17)~~(12)~~ "Increments" means *the*~~that~~ amount of *revenues*~~revenue due to be~~ received by *any taxing district*~~a city or county~~, determined by subtracting the amount of old revenues from the amount of new revenues *in the calendar year*~~, including assessments, if any,~~ with respect to a development area *and for which the taxing district or districts and the agency have agreed upon under the terms of a grant contract*;
- (18) "*Infrastructure development*" means *the acquisition of real estate within a development area meeting the requirements of Section 14 of this Act and the construction or improvement, within a development area meeting the requirements of Section 14 of this Act of roads and facilities necessary or desirable for improvements of the real estate, including surveys; site tests and inspections; environmental remediation; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other underground and surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, and electricity, communications, and similar facilities; and utility extensions to the boundaries of the development area meeting the requirements of Section 14 of this Act*;
- (19)~~(13)~~ "Issuer" means a city,~~or~~ county, *or an agency* issuing increment bonds;
- (20)~~(14)~~ "New revenues" means the *amount of* revenues received with respect to a development area in any *calendar* year after the *activation*~~commencement~~ date for *a*~~the~~ development area:
- (a) *Established under Section 9 of this Act, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area, and occupational license fees not otherwise used as a credit against an assessment, and all or a portion of assessments as determined by the governing body; or*
 - (b) *Satisfying the requirements of Section 14 of this Act, the ad valorem taxes other than the school and fire district portions of the ad valorem taxes received from real property generated from the development area and properties sold within the development area; or*
 - (c) *Satisfying the requirements of Section 15 of this Act, the ad valorem taxes, other than the school and fire district portions of the ad valorem taxes, received from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees or other such state taxes as may be determined by the Revenue Cabinet to be applicable to the project and specified in the grant contract, generated from the primary project entity within the development area minus relocation revenue*~~and may include all or a portion of the assessments as determined by the governing body~~;
- (21)~~(15)~~ "Old revenues" means the amount of revenues received with respect to a development area:

- (a) *Established under Section 9 of this Act, in the last calendar year prior to the commencement date for the development area, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area and occupational license fees generated from the development area; or*
- (b) *Satisfying the requirements of Section 14 of this Act, in the last calendar year prior to the commencement date for the development area, revenues which constitute ad valorem taxes other than the school and fire district portions of ad valorem taxes received from real property in the development area; or*
- (c) *Satisfying the requirements of Section 15 of this Act, in the period of no longer than three (3) calendar years prior to the commencement date, the average as determined by the Revenue Cabinet to be a fair representation of revenues derived from ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property in the development area, and Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees and other such state taxes as may be determined by the Revenue Cabinet as specified in the grant contract generated from the development area. With respect to this paragraph, if the development area was within an active enterprise zone for the period used by the Revenue Cabinet for measuring old revenues, then the calculation of old revenues shall include the amounts of ad valorem taxes, other than the school and fire district portions of ad valorem taxes, that would have been generated from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees and other such state taxes as may be determined by the Revenue Cabinet as specified in the grant contract, were the development area not within an active enterprise zone. With respect to this paragraph, if the primary project entity generated old revenue prior to the commencement date in the development area or revenues were derived from the development area prior to the commencement date of the development area, then revenues shall increase each calendar year by the percentage increase of the consumer price index, if any;*

(22)~~(16)~~ "Outstanding" means increment bonds that have been issued, delivered, and paid for, except any of the following:

- (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;
- (b) Increment bonds in replacement of which or in exchange for which other bonds have been issued; or
- (c) Increment bonds for the payment, or redemption or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;

- (23) *"Primary project entity" means the entity responsible for control, ownership and operation of the project within a development area satisfying the requirements of Section 15 of this Act which generates the greatest amount of new revenues or, in the case of a proposed development area satisfying the requirements of Section 15 of this Act, is expected to generate the greatest amount of new revenues;*
- (24) *"Project" means, for purposes of a development area:*
- (a) *Established under Section 9 of this Act, any property, asset, or improvement certified by the governing body, which certification is conclusive as:*
 - 1. *Being for a public purpose;*
 - 2. *Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, or any combination thereof, which is determined by the governing body establishing the development areas as contributing to economic development;*
 - 3. *Being in or related to a development area; and*
 - 4. *Having an estimated life or period of usefulness of one (1) year or more, including, but not limited to, real estate, buildings, personal property, equipment, furnishings, and site improvements and reconstruction, rehabilitation, renovation, installation, improvement, enlargement, and extension of property, assets, or improvements so certified as having an estimated life or period of usefulness of one (1) year or more;*
 - (b) *Satisfying the requirements of Section 14 of this Act; an economic development project defined under Section 19 of this Act, Section 32 of this Act, or Section 37 of this Act; or a tourism attraction project defined under KRS 148.851; or*
 - (c) *Satisfying the requirements of Section 15 of this Act, the development of facilities for:*
 - 1. *The transportation of goods or persons by air, ground, water, or rail;*
 - 2. *The transmission or utilization of information through fiber-optic cable or other advanced means;*
 - 3. *Commercial, industrial, recreational, tourism attraction, or educational uses; or*
 - 4. *Any combination thereof;*
- (25) *"Relocation revenue" means the ad valorem taxes, other than the school and fire district portions of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees and other such state taxes as specified in the grant contract, received by a taxing district attributable to that portion of the existing operations of the primary project entity located in the Commonwealth and relocating to the development area satisfying the requirements of Section 15 of this Act;*
- (26) *"Special fund" means a special fund created in accordance with KRS 65.688 into which increments are to be deposited;*

(27) *"Taxing district" means a city, county, or other taxing district that encompasses all or part of a development area, or the Commonwealth, but does not mean a school district or fire district;*

~~[(17) "Revenue collector" means any official charged with collecting revenues in a development area;~~

~~(18) "Revenues" means ad valorem revenues, occupational license fees, and assessments received by the city or county creating a development area and by each city and county that is a party to a financing agreement related to that development area;~~

~~(19) "Special fund" means a special fund created in accordance with KRS 65.688 into which increments are to be deposited;]~~

(28)~~(20)~~ *"Termination date" means the date on which a~~the~~ development area shall cease to exist, which for purposes of a development area:*

(a) *Established under Section 9 of this Act, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this paragraph; or*

(b) *Satisfying the requirements of Section 14 of this Act, shall be for a period of no longer than twenty (20) years from the commencement date and set forth in the grant contract constituting a master agreement, except that for an addendum added to the master agreement for each project in the development area, the termination date may be extended to no longer than twenty (20) years from the date of each addendum; or*

(c) *Satisfying the requirements of Section 15 of this Act, shall be for a period of no longer than twenty (20) years from the activation date of the grant contract. Increment bonds shall not mature on a date beyond the termination date established by this subsection~~[date shall be no earlier than the date any increment bonds secured by increments from a development area are no longer outstanding];~~~~[and]~~*

~~(29)~~(21)~~ "Tourism development authority" means the Tourism Development Finance Authority as created in KRS 148.850; and~~

(30) *"Project costs" mean the total private and public capital costs of a project~~["Year" means January 1 to December 31 of the same calendar year].~~*

Section 4. KRS 65.682 is amended to read as follows:

The General Assembly finds and declares that economic development created by the development of~~[economic development]~~ projects to support economic revitalization and improvement in a development area which results in the increase in the value of property located in a development area or results in increased employment opportunities within or around a development area serves a public purpose; *and that the authority prescribed by KRS 65.680 to 65.699 and the purposes to be accomplished thereunder, are proper governmental and public purposes for which public moneys may be expended; and that the creation or expansion of development areas is of paramount importance mandating that the provisions of KRS 65.680 to 65.699 be liberally construed and applied in order to advance public purposes.*

Section 5. KRS 65.684 is amended to read as follows:

For any development area for which increments do not include revenues from the Commonwealth, in addition to any other powers conferred by law, any city or county may exercise any powers necessary or convenient to carry out the purposes of KRS 65.680 to 65.699, including the power to:

- (1) Create development areas and to define their boundaries;
- (2) Undertake ~~economic development~~ projects;
- (3) Issue increment bonds and pledge increments to the payment of debt charges on those increment bonds;
- (4) Create a special fund established for the deposit of increments and other funds that may be used or pledged for the payment of increment bonds and to pay the costs of ~~economic development~~ projects;
- (5) Utilize increments to pay the costs of economic development projects and for the payment of amounts due on increment bonds; and
- (6) Impose *assessments* ~~job development assessment fees~~.

Section 6. KRS 65.6851 is amended to read as follows:

For any development area for which increments do not include revenues from the Commonwealth:

- (1) Any governing body establishing a development area may impose *an* ~~a job development~~ assessment ~~fee~~ on each person employed in the development area, *as a condition of employment*, whose job was newly created as a result of *a* ~~an economic development~~ project ~~begun on or after January 1, 2002~~, and as determined by the policies and procedures established by the governing body, subject to the conditions in subsection (6) of this section, and who is subject to the state tax imposed by KRS 141.020. A job shall not be deemed to be newly created under this section if it occurs due to the relocation of jobs from another location within the Commonwealth.
- (2) *Subject to Section 7 of this Act*, the total assessment levied by all the governing bodies within the development area shall not exceed an amount equal to *two* ~~three~~ percent (2%) ~~(3%)~~ of the gross wages of the employee.
- (3) Each person so assessed shall be entitled to credits against *local occupational license fees, if a local occupational license fee is then in existence and not otherwise totally used as a credit against assessments imposed under Subchapter 23, 24, or 26 of KRS Chapter 154,* ~~Kentucky income tax~~ equal to the assessment ~~fee~~ withheld from wages during the *calendar* year ~~as provided by KRS 141.310 and 141.350~~ so long as the amount does not exceed the amount of the assessment itself. ~~The approved company shall determine the applicable tax credit for each of its employees using the methods set forth in KRS 141.347.~~
- (4) Subsequent to the establishment of a development area by one (1) governing body, no other governing body may levy an assessment in any portion of the development area that would cause the total assessment in any portion of the development area to exceed *two* ~~three~~ percent (2%) ~~(3%)~~ of the gross wages of the employee, *subject to Section 7 of this Act*. If more than one (1) governing body jointly establishes a development area, the governing bodies that establish the development area shall agree upon the amount of the assessment and the manner by which the assessment is to be prorated among the governing bodies establishing the development area.

- (5) Any assessment of employees in connection with their employment at ~~a~~~~an economic development~~ project levied under this section shall permanently lapse on the date:
- (a) Any bonds issued in connection with acquiring or developing the infrastructure of a development area ~~or a qualified development area~~, in accordance with KRS 65.680 to 65.699, are retired; or
 - (b) Any loans or other financing incurred in connection with the establishment of a development area ~~or a qualified development area~~ mature or are prepaid in full.
- (6) For the purposes of this section:
- (a) The development area shall be a previously undeveloped tract of land;
 - (b) No more than five hundred (500) acres may be approved in any twelve (12) month period in any county; *and*
 - (c) Acceptable developments shall be limited to *projects as defined in Section 3 of this Act* ~~manufacturing, and technical developments as approved by the Commissioner of the New Economy;~~
 - ~~(d) Each proposed development shall be evaluated by the Kentucky Economic Development Finance Authority in consultation with the Governor's Office of Economic Analysis for fiscal viability; and~~
 - ~~(e) The amount of the total assessment for each company locating within the development area shall be subject to approval by the Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet. Approval shall not be granted if it is determined that there is no net positive economic impact to the Commonwealth.~~
- (7) *Any agency that has established a development area under KRS 65.680 to 65.699 prior to the effective date of this Act, unless otherwise approved by the agency, shall continue to operate under the provisions of KRS 65.680 to 65.699 as determined by the policies and procedures established by the agency prior to the effective date of this Act.*

Section 7. KRS 65.6853 is amended to read as follows:

For any development area for which increments do not include revenues from the Commonwealth:

- (1) If a company, against whose employees an assessment is levied under *Section 6 of this Act*~~[KRS 65.6851]~~, enters into an agreement with the *economic development authority*~~[Kentucky Economic Development Finance Authority]~~ under *Subchapter 23, 24, or 26 of KRS Chapter 154*~~[154.22-010 to 154.22-080, KRS 154.23-005 to 154.23-079, KRS 154.24-010 to 154.24-150, KRS 154.26-010 to 154.26-100, and KRS 154.28-010 to 154.28-100]~~ allowing the company to *impose*~~[assess]~~ a job development assessment fee as part of that agreement, the total assessment levied against the employee *for state inducements and the development area* shall not exceed *six percent (6%), subject to subsection (2) of this section*~~[the maximum assessment allowed under KRS 154.22-010 to 154.22-080, KRS 154.23-005 to 154.23-079, KRS 154.24-010 to 154.24-150, KRS 154.26-010 to 154.26-100, and KRS 154.28-010 to 154.28-100]~~.
- (2) *If an eligible company under Subchapter 23, 24, or 26 of KRS Chapter 154 locates or expands within a development area, the assessment imposed under subsection (1) of Section 6 of this Act shall not exceed the lesser of two percent (2%) or the difference*

between two percent (2%) and the local occupational license fee used as a credit against the assessments granted under Subchapter 23, 24, or 26 of KRS Chapter 154 ~~When added with the job development assessment fees under KRS 65.6851, the total credits that an employee may claim against his or her Kentucky income tax imposed under KRS 141.020 shall not exceed the maximum total job development assessment fees under KRS 154.22-010 to 154.22-080, KRS 154.23-005 to 154.23-079, KRS 154.24-010 to 154.24-150, KRS 154.26-010 to 154.26-100, and KRS 154.28-010 to 154.28-100.~~

Section 8. KRS 65.6855 is amended to read as follows:

For any development area for which increments do not include revenues from the Commonwealth:

- (1) The employees of any ~~approved~~ company choosing to locate in a development area shall be subject to any assessments levied against them, and the ~~approved~~ company shall not have the authority to reject an assessment.
- (2) Each employer in the development area shall:
 - (a) Collect the assessment from its employees by deducting the assessment from each paycheck of its employees;
 - (b) Promptly remit the assessment to the ***official charged with collecting revenues in the development area*** ~~revenue collector~~;
 - (c) Make its payroll books and records available to the ***official charged with collecting revenues in the development area*** ~~revenue collector~~ at a reasonable time as specified by the governing body; and
 - (d) File with the ***official charged with collecting revenues in the development area*** ~~revenue collector~~ any documentation with regard to the assessment as required by the governing body.

Section 9. KRS 65.686 is amended to read as follows:

- (1) Any city or county may establish or modify a development area by:
 - (a) Holding a public hearing by its governing body or its designee at which interested parties are afforded a reasonable opportunity to express their views on the proposed creation or modification of a development area and its boundaries. Notice of the hearing shall:
 1. Include a declaration that the purpose of the hearing is to afford interested parties an opportunity to express their views regarding the ***proposed*** development area;
 2. Include a general description of the boundaries of the proposed development area;
 3. State the time and place of the hearing; and
 4. Be published in a local newspaper of general circulation at least seven (7) days but no more than twenty-one (21) days prior to the scheduled hearing date; and
 - (b) Adopting an ordinance which shall:
 1. Describe the boundaries of the ***proposed*** development area with sufficiency to allow ordinary and reasonable certainty of the territory included. However, no

- proposed* development area shall include property located in any other development area;
2. Create the development area on a date certain, which shall be referred to as the commencement date~~[, and, if deemed appropriate by the governing body, establish a termination date];~~
 3. Assign a name to the *proposed* development area for identification purposes;
 4. Contain findings that the designation of the proposed development area will result in the increase in the value of property located in the development area or result in increased employment within or around the development area, or both;
 5. Approve the *grant contract*~~[financing agreement]~~, if any, relating to a~~[the economic]~~ development *area*~~[project]~~;
 6. Establish, *if applicable*, a special fund for that development area;
 7. Contain any other findings, limitations, rules, or procedures regarding the *proposed* development area and its establishment or maintenance as deemed necessary by the governing body; and
 8. *Permit, if applicable, the levying of an assessment*~~[Levy the job development assessment fee, if any]; and~~
- (c) Providing the *official charged with collecting revenues in the development area*~~[revenue collector]~~, if the *official*~~[collector]~~ is not an employee of the city or county designating the development area, with a description of the development area and any other information available which is needed to determine increments or new revenues.
- (2) (a) *For any development area for which increments do not include revenues from the Commonwealth*, increments generated in a development area shall be submitted by the *official charged with collecting revenues in the development area*~~[revenue collector]~~ to the city or county establishing the special fund for that development area, deposited to that special fund and used to pay the costs of~~[economic development]~~ projects or to pay debt charges on increment bonds, except that increments payable to any city or county other than the city or county establishing the~~[economic]~~ development area shall be submitted to that city or county as if no development area existed unless that city or county is a party to a *grant contract*~~[financing agreement]~~ that provides that some or all of the increments are to be submitted to a special fund.
- (b) *For any development area for which increments include revenues from the Commonwealth, increments paid by the city, county, or Commonwealth to the agency for which the development area is created shall be used to pay the costs of projects or to pay debt charges on increment bonds.*
- (3) The existence of a development area shall terminate on the termination date~~[and if no termination date is established by the ordinance creating the development area, on the earlier of the termination date subsequently established by ordinance or the first December 31 that is at least thirty (30) years from the commencement date; however, any development area shall not be terminated as long as there are any increment bonds outstanding for which the revenues of the development area are pledged to the repayment thereof].~~

Section 10. KRS 65.688 is amended to read as follows:

For any development area for which increments do not include revenues from the Commonwealth, while increment bonds are outstanding, the issuer shall maintain a special fund which shall be pledged for the retirement of those increment bonds. *Officials charged with collecting revenues in the development area*~~Revenue collectors~~ shall, for each year a *grant contract*~~financing agreement~~ is in effect or any increment bonds are outstanding with respect to a development area, determine the amount of increments from the development area which they are charged with collecting and submit those increments for deposit in the special fund established by the governing body for that development area. Funds deposited in a special fund for the payment of increment bonds shall be disbursed at the times and in the amounts required to pay debt charges on those increment bonds. Accrued interest from the sale of increment bonds shall be deposited in the special fund pledged to the payment of those bonds. Amounts in a special fund which exceed the amount required to pay debt charges on related increment bonds in any fiscal year may accumulate in the special fund for the payment of future debt charges or to pay the costs of additional~~economic development~~ projects in the development area, or may be transferred by the governing body from the special fund under the terms of a *grant contract*~~financing agreement~~ or used for any lawful purpose.

Section 11. KRS 65.692 is amended to read as follows:

- (1) Increment bonds may be issued to pay the costs of~~economic development~~ projects *in the development area*. The provisions of KRS 66.021, 66.031, 66.041, 66.045, 66.071, 66.091, 66.121, 66.131, 66.141, 66.151, 66.171, 66.181, and 66.191 shall apply to the issuance of increment bonds *insofar as they do not conflict with KRS 65.680 to 65.699; if they do conflict, KRS 65.680 to 65.699 shall apply*.
- (2) Debt payments on increment bonds may be paid from increments, from any other funds of the issuer, or from funds identified in a *grant contract*~~financing agreement~~, or any combination thereof. If increment bonds are payable solely from increments, the issuer shall, prior to the issuance of the increment bonds, make a determination that the increments are adequate to make the debt payments so long as the increment bonds are outstanding.
- (3) Increment bonds may also be issued to fund or refund all or any portion of outstanding increment bonds. Any increment bonds issued under this subsection shall mature as determined by the governing body consistent with *the definition of termination date as contained in Section 3 of this Act and KRS 66.091*~~, but their maturity shall not be later than the date that would have been permitted by KRS 66.091, as of the date the original bonds were issued~~.

Section 12. KRS 65.694 is amended to read as follows:

Any city or county may pledge increments to the payment of increment bonds by an ordinance adopted by the governing body or by a *grant contract*~~financing agreement~~ adopted by ordinance. Any pledge of increments adopted under this section shall, as to the increments, but not as to any other revenues, be superior to any other pledge of revenues for any other purpose and shall, from the effective date of the ordinance to the termination date, supersede any statute or ordinance regarding the application or use of increments. No ordinance in conflict with an ordinance pledging increments shall be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances pledging increments on a subordinate basis to any existing pledges may be adopted.

Section 13. KRS 65.696 is amended to read as follows:

For any development area for which increments do not include revenues from the Commonwealth:

- (1) Upon establishment of a development area, any city or county may release, by a ***grant contract***~~{financing agreement}~~ with any other city or county, increments expected to be collected by that city or county in the related development area for a period that does not extend beyond the termination date.
- (2) The ***grant contract***~~{financing agreement}~~ shall include the following provisions:
 - (a) The identity of each city and county participating in the financing agreement;
 - (b) A detailed description of each~~{economic development}~~ project that is the subject of the ***grant contract***~~{financing agreement}~~, including an estimate of its costs of construction or acquisition and development;
 - (c) A detailed description of the development area;
 - (d) A detailed summary estimating old revenues collected and projected new revenues in the development area for each city and county that is a party to the ***grant contract***~~{financing agreement}~~, on an annual basis, for the term of the proposed ***grant contract***~~{financing agreement}~~;
 - (e) The maximum amount of increments to be released by the parties to the ***grant contract***~~{financing agreement}~~, if any, and the maximum number of years the release will be effective, including an agreement to deposit the increments in a special fund created for that purpose, which, if any increment bonds are to be issued, shall be held by the issuer of the increment bonds;
 - (f) The times and procedures for depositing increments and other funds, if any, in the special fund to be established for the development area and any provisions relating to the collection of the increments;
 - (g) Any covenants regarding additional funds or to pay the costs of the~~{economic development}~~ projects;
 - (h) Any covenants regarding completion of the~~{economic development}~~ project;
 - (i) Terms of default and remedies, except that no remedy shall permit the withholding by any party to the ***grant contract***~~{financing agreement}~~ of any increments to be deposited in the special fund identified in the ***grant contract***~~{financing agreement}~~ so long as any increment bonds are outstanding that are secured by a pledge of those increments;~~{and}~~
 - (j) ***The commencement date;***
 - (k) ***The termination date; and***
 - (l) Any other provisions not inconsistent with KRS 65.680 to 65.699 that are deemed necessary or appropriate by the parties to the ***grant contract***~~{financing agreement}~~.

SECTION 14. A NEW SECTION OF KRS 65.680 TO 65.699 IS CREATED TO READ AS FOLLOWS:

- (1) ***A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area for infrastructure development which includes revenues from the Commonwealth, the standards for which the Cabinet for***

Economic Development and the Tourism Development Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area described in the application constitutes a project of the type described in this section. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

- (2) *A development area for purposes of infrastructure development shall:*
 - (a)
 1. *Consist of at least fifty (50) acres of undeveloped land, unless approved otherwise by the economic development authority or the to tourism development authority in consideration of the geography of the area; or*
 2. *Consist of at least one (1) acre constituting a brownfield site; and*
 - (b)
 1. *In the case of an economic development project, be under the control of, owned by, and operated by an agency at the commencement date; or*
 2. *In the case of a tourism attraction project, be under the control of, leased by, owend by, or operated by an agency at the commencement date.*
- (3) *With respect to each city, county, or agency that applies to the economic development authority or the tourism development authority for approval of a development area for infrastructure development, the economic development authority or the tourism development authority shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority may grant approval for:*
 - (a) *The development area for infrastructure development;*
 - (b) *Each project for which an application has been submitted to be located in the development area for infrastructure development, provided that each project approved for location in the development area for infrastructure development meets the criteria necessary in order to qualify for inducements under subchapters 22, 24, or 28 of KRS Chapter 154, or satisfies the requirements of a tourism development attraction defined under KRS 148.851;*
 - (c) *The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to distribute to the agency each year during the term of the grant contract;*
 - (d) *The maximum amount of costs for infrastructure development for which the increment may be distributed to the agency; and*
 - (e) *The master agreement constituting a grant contract and any addendum for each project approved for location in the development area for infrastructure development.*
- (4) *Prior to any approval by the economic development authority or the tourism development authority, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and establishing the percentage of increment that the city and county are distributing each year to the agency for use in the infrastructure development of the*

development area for which economic development authority or the tourism development authority approval is sought. The economic development authority or the tourism development authority shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each calendar year with respect to a development area for infrastructure development greater than the percentage approved by the city or county creating the development area.

- (5) *The maximum amount of increment available for development areas for infrastructure development is one hundred percent (100%).*
- (6) *The terms and conditions of each grant contract, including the master agreement constituting a grant contract and any addenda, are subject to negotiations between the economic development authority or the tourism development authority and the other parties to the grant contract. The grant contract shall include, but not be limited to, the following provisions: the activation date, the taxes to be included in the calculation of the increment, the percentage increment to be contributed by each taxing district, the maximum amount of infrastructure development costs, a description of the development area, the termination date, subject to extension through each addendum, and the requirement of the agency to annually certify to the economic development authority or the tourism development authority as to the use of the increment for payment of infrastructure development costs.*
- (7)
 - (a) *Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due, and, in consultation with each taxing district, determine the respective portion of the total increment due from each taxing district. The agency shall then present the total increment due from the Commonwealth under the grant contract to the Revenue Cabinet for certification.*
 1. *Upon notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the Revenue Cabinet on a calendar year basis the amount of the increment collected.*
 2. *Upon certification of the total increment due from the Commonwealth by the Revenue Cabinet, the Cabinet is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.*
 - (b) *The Revenue Cabinet shall report to the economic development authority or the tourism development authority on a calendar year basis the amount of the total increment released to an agency.*

- (8) *The Revenue Cabinet shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.*
- (9) *The Revenue Cabinet or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the tax increment financing account after the initial release to the agency of the Commonwealth's increment for that period.*

SECTION 15. A NEW SECTION OF KRS CHAPTER 65.680 TO 65.699 IS CREATED TO READ AS FOLLOWS:

- (1) *A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area, which includes revenues from the Commonwealth, and the related project, the standards for which the Cabinet for Economic Development and the Tourism Development Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area and related project described in the application constitutes a project of the type described in KRS Chapter 154 for which the economic development authority shall have the right to approve the development area and related project or KRS Chapter 148 for which the tourism development authority shall have the right to approve the development area and related project. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.*
- (2) *A project otherwise satisfying the requirements of the project as defined in Section 3 of this Act, in order to qualify the project and related development area, in addition shall satisfy all of the following requirements for a project:*
 - (a) *Represent new economic activity in the Commonwealth;*
 - (b) *Result in a minimum capital investment of ten million dollars (\$10,000,000);*
 - (c) *Result in the creation of a minimum of twenty-five (25) new full-time jobs for Kentucky residents to be held by persons subject to the personal income tax of the Commonwealth within two (2) years of the date of the final resolution authorizing the development area and the project;*
 - (d) *Result in a net positive economic impact to the economy of the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses;*
 - (e) *Generate a minimum of twenty-five percent (25%) of the total revenues derived from the project attributable to sources outside of the Commonwealth during each year a grant contract is in effect;*
 - (f) *Result in a unique contribution to or preservation of the economic vitality and quality of life of a region of the Commonwealth; and*
 - (g) *Not be primarily devoted to the retail sale of goods.*
- (3) *After assignment of the application for the project and related development area by the Cabinet for Economic Development:*

- (a) *The economic development authority or the tourism development authority, as appropriate, shall engage the services of a qualified independent consultant to analyze data related to the project and the development area, who shall prepare a report for the economic development authority or the tourism development authority, as appropriate, with the following findings:*
1. *The percentage of revenues derived from the development area which are generated from business not located in the Commonwealth;*
 2. *The estimated amount of increment the development area is expected to generate over a twenty (20) year period from the projected activation date;*
 3. *The estimated amount of ad valorem taxes, other than the school or fire district portion of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes which would be displaced within the Commonwealth, to reflect economic activity which is being shifted over the twenty (20) year period;*
 4. *The estimated increment the development area is expected to generate over the twenty (20) year period, equal to the estimated amount set forth in paragraph (a)2. of this subsection minus the estimated amount set forth in paragraph (a)3. of this subsection; and*
 5. *The project or development area will not occur if not for the designation of the development area and granting of increments by the Commonwealth to the development area.*
- (b) *The independent consultant shall consult with the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet in the development of the report. The Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall agree as to methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall certify whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project to the economic development authority or tourism development authority, as appropriate. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.*
- (c) *The primary project entity shall pay all costs associated with the independent consultant's report.*
- (4) *With respect to each city, county, or agency that applies for approval of a project and development area, the economic development authority or the tourism development authority, as appropriate, shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority, as appropriate, deems necessary. Upon review of the application and requested materials,*

and completion of inquiries, the economic development authority or the tourism development authority, as appropriate, may, by resolution grant approval for:

- (a) The development area and project for which an application has been submitted;*
 - (b) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to have distributed to the agency each year during the term of the grant contract;*
 - (c) The maximum amount of costs for the project for which the increment may be distributed to the agency; and*
 - (d) The grant contract.*
- (5) Prior to any approval by the economic development authority or the tourism development authority, as appropriate, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and approving the project and establishing the percentage of increment that the city and county are distributing each year to the agency to pay for the development area for which economic development authority or tourism development authority approval is sought. The economic development authority or the tourism development authority, as appropriate, shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each year with respect to a development area and project greater than the percentage approved by the city or county creating the development area.*
- (6) The amount of increment available for a development area shall be no more than eighty percent (80%) per year, but shall in no case exceed twenty-five percent (25%) of the project costs during the term of the grant agreement.*
- (7) The terms and conditions of each grant contract are subject to negotiations between the economic development authority or the tourism development authority, as appropriate, and the other parties to the grant contract. The grant contract shall include, but not be limited to, the following provisions: the activation date, the agreed taxes to be included in the calculation of the increment, the percentage increment to be contributed by the Commonwealth and other taxing districts, the maximum amount of project costs, a description of the development area and the project, the termination date, and the requirement that the agency annually certify to the economic development authority or tourism development authority, as appropriate, as to the use of the increment for payment of project costs in the development area.*
- (8) The agency responsible for the development area that enters into the grant contract shall, after each year the grant contract is in effect, certify to the economic development authority or the tourism development authority, as appropriate:*
 - (a) The amount of the increment used during the previous calendar year for the project costs; and*
 - (b) That more than twenty-five percent (25%) of the total revenues derived from the project during the previous calendar year were attributable to sources outside the Commonwealth.*
- (9) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant*

contract that an increment is due. In consultation with each taxing district, the agency shall determine the respective portion of the total increment due from each taxing district, and the determination of the agency shall be reviewed by an independent certified public accountant. The agency shall submit to the Revenue Cabinet for certification its determination with respect to the total increment due together with the review of the certified public accountant and detailed information concerning ad valorem taxes, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the Revenue Cabinet, including withholding taxes of employees of each taxpayer located in the development area.

- 1. Upon notification to the agency of the total increment by the Revenue Cabinet and notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the Revenue Cabinet on a calendar year basis the amount of the increments collected.*
- 2. Upon certification of the total increment due from the Commonwealth by the Revenue Cabinet, the Cabinet is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority, as appropriate, shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.*

(b) The Revenue Cabinet shall report to the economic development authority or the tourism development authority, as appropriate, on a calendar year basis the amount of the total increment released to an agency.

- (10) The Revenue Cabinet shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.*
- (11) The Revenue Cabinet or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the trust account established under subsection (9)(a)2. of this section and administered by the Finance and Administration Cabinet after the initial release to the agency of the Commonwealth's increment for that period.*

Section 16. KRS 103.210 is amended to read as follows:

- (1) In order to promote the economic development of the Commonwealth, promote reconversion to peacetime economy, to relieve conditions of unemployment, to aid in the rehabilitation of returning veterans, to encourage the increase of industry in this state, and to aid in the retention of existing industry through the control of pollution or through conversion of energy facilities to more readily available fuels, any city or county may borrow money and issue negotiable bonds for the purpose of defraying the cost of acquiring*

any industrial building or pollution control facility, either by purchase or construction, but only after an ordinance or resolution has been adopted by the legislative body of the city or the fiscal court of the county, or the governing body of Kentucky Economic Development Finance Authority, if requested by the legislative body of the city or the fiscal court of the county, as the case may be, specifying the proposed undertaking, the maximum amount of bonds to be outstanding at any one (1) time, and the maximum rate of interest the bonds are to bear. This section shall not be deemed to require, however, that such ordinance or resolution be adopted prior to interim financing of the project, if such interim financing was undertaken by the proposed lessee corporation upon the basis of discussions between the corporation and responsible officials of the issuer which were later formally ratified by the appropriate governing body of the issuer. The ordinance or resolution shall further provide that the industrial building or the pollution control facility is to be acquired pursuant to the provisions of KRS 103.200 to 103.285. Each such bond-authorizing ordinance or resolution shall be effective only after publication, in a newspaper authorized to publish official advertisements for the issuer, of the title to said ordinance or resolution, together with a statement signed by the clerk of the issuer setting forth the maximum amount of bonds to be outstanding at any one (1) time, the name of the lessee corporation, and the fact that the bonds are to be retired from the proceeds of either the lease payments as set forth in KRS 103.200 to 103.285, inclusive, or the loan payments or sale payments in the event the industrial building financing transaction is carried out pursuant to a loan agreement, sale agreement, or other *tax incentive*~~financing~~ agreement. No publication of the complete ordinance or resolution shall be required, but said ordinance or resolution shall be entered upon the records of the issuer and shall be available for public inspection. ***Any industrial buildings financed by bonds pursuant to KRS 103.200 to 103.285 and leased in connection with the bond financing from a tax-exempt governmental unit, or tax-exempt statutory authority, shall require the prior approval by the Kentucky Economic Development Finance Authority of the reduced ad valorem tax for industrial buildings under KRS 132.020, the standards for which the Kentucky Economic Development Finance Authority shall establish through its operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The authority shall consider, along with other indicators, when establishing standards, the number of jobs to be created, the amount of capital to be invested, and the wages and benefits to be paid.***

- (2) Kentucky Economic Development Finance Authority, any air board established pursuant to KRS 183.132, and any riverport authority established as provided in KRS 65.510 to 65.650, inclusive, shall have and possess all power and authority granted to cities and counties by the provisions of KRS 103.200 to 103.285, excluding condemnation powers under KRS 103.245, for the financing of industrial buildings. For such purposes, the terms "city," "county," and "issuer" as used in KRS 103.200 to 103.285, inclusive, shall also mean and refer to Kentucky Economic Development Finance Authority, any air board established pursuant to KRS 183.132, and any riverport authority established as provided in KRS 65.510 to 65.650. The power and authority granted to Kentucky Economic Development Finance Authority, any air board, and any riverport authority shall be and constitute an additional and alternative grant of power and authority to such governmental agencies, and shall not be construed as being in derogation of any other powers vested in each of such governmental agencies.

Section 17. KRS 132.020 is amended to read as follows:

- (1) An annual ad valorem tax for state purposes of thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100) of value of all real property directed to be assessed for taxation, and one and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, ***upon the prior approval of the Kentucky Economic Development Finance Authority***~~[directed to be assessed for taxation]~~, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of all money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of unmanufactured agricultural products, one-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all livestock and domestic fowl, one-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81, fifteen cents (\$0.15) upon machinery actually engaged in manufacturing, fifteen cents (\$0.15) upon commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents (\$0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent (\$0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.
- (2) (a) An annual ad valorem tax for state purposes of one and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:
1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;
 2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;
 3. Notes, bonds, accounts receivable, and all other intercompany intangible personal property due from any affiliated company; and
 4. Tobacco base allotments.

- (b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.
- (3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.
- (4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.
- (5) Thirty cents (\$0.30) of the thirty-one and one-half cents (\$0.315) state tax rate on real property and thirty cents (\$0.30) of the forty-five cents (\$0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents (\$0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.
- (6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%), *excluding the assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65 and the assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1) of this section*. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.
- (7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.
- (8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, *excluding the revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65 and the revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1) of this section*, the rate shall be adjusted in the succeeding year so that the

cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

- (9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Kentucky Coal Council for the purpose of public education of coal-related issues.
- (10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents (\$0.05) upon each one hundred dollars (\$100) of value shall be paid upon goods held for sale in the regular course of business, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.
- (11) An ad valorem tax for state purposes of ten cents (\$0.10) per one hundred dollars (\$100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.
- (12) An ad valorem tax for state purposes of one and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.
- (13) An ad valorem tax for state purposes of one and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.

Section 18. KRS 154.20-010 is amended to read as follows:

- (1) There is created and established within the cabinet, subject to the authority of the board, the Kentucky Economic Development Finance Authority as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic with all powers, duties, and responsibilities delegated to it by the board or as otherwise provided by law, including, all programs, powers, duties, rights, and obligations of the Kentucky Development Finance Authority and the Kentucky Rural Economic Development Authority.
- (2) Any interest, right, or cause of action held in whole or in part by any person, corporation, limited liability company, partnership, registered limited liability partnership, government agency, or other entity under any agreement, contract, lease, mortgage, guarantee, bond, note, refund bond, or other financial transaction or obligation, made, issued, or otherwise entered into by any of the authorities, programs, or funds specified in subsection (1) of this section or that may be delegated to the authority by the board, shall not be impaired or otherwise diminished.

- (3) Any interest, right, or cause of action held in whole or in part by any of the authorities, programs, or funds specified in subsection (1) of this section shall not be impaired or otherwise diminished, but shall be assumed by the authority, for and on behalf of the cabinet.
- (4) The authority shall consist of a committee of seven (7) persons, including six (6) persons appointed by the board who shall be private citizens of the Commonwealth, and the secretary of the Finance and Administration Cabinet who shall serve ex officio. Any person appointed to the committee shall have experience and expertise in business or finance.
- (5) Two (2) members initially appointed to the committee shall have a term of one (1) year each, two (2) members initially appointed to the committee shall have a term of two (2) years each, and two (2) members initially appointed to the committee shall have a term of three (3) years each, except that any person appointed to fill a vacancy shall serve only for the remainder of the unexpired term. All subsequent appointments shall be for a term of three (3) years.
- (6) Any person appointed to the committee shall be eligible for reappointment, including any member of the committee appointed prior to July 15, 1994.
- (7) The members of the committee shall elect biennially from the committee's private citizen membership the following officers: chairman, vice chairman, secretary-treasurer, and any assistant secretaries and assistant treasurers the committee deems necessary.
- (8) A majority of the members of the committee, determined by excluding any existing vacancies from the total number of members, shall constitute a quorum. ***A majority vote of the members present at a duly called meeting of the committee shall be required*** for the purposes of conducting its business and exercising its powers and for all other purposes.
- (9) The committee shall prepare bylaws and procedures applicable to the operations of the authority and submit them to the board to be promulgated as administrative regulations in accordance with KRS Chapter 13A.
- (10) Members of the committee shall be entitled to compensation for their services in an amount of one hundred dollars (\$100) for each regular meeting of the committee and shall be entitled to reimbursement for all necessary expenses in connection with the performance of their duties.

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

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

- (1) ***"Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;***
- (2) "Affiliate" means the following:
 - (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
 - (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

- (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;
- (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
 - 1. One (1) or more *chains*~~[claims]~~ of corporations connected through stock ownership with a common parent corporation if:
 - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
 - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
 - 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
- (e) A grantor and a fiduciary of any trust;
- (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- (g) A fiduciary of a trust and a beneficiary of that trust;
- (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
- (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:
 - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
 - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

- (l) A corporation and a limited liability company if the same persons own:
 - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
 - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
- (m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:
 - 1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
 - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
- (n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or
- (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;[-]
- ~~(3)(2)~~ "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;[-]
- ~~(3)~~ "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal.[-]
- (4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;[-]
- (5) "Approved costs" means:
 - (a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
 - (b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;
 - (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;
 - (d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent

upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

- (e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and
- (f) All other costs of a nature comparable to those described above;~~[-]~~
- (6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;~~[-]~~
- (7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;~~[-]~~
- (8) ***"Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand and eighty (2,080) hour work year for the following sectors:***
 - (a) ***Manufacturing;***
 - (b) ***Transportation, communications and public utilities;***
 - (c) ***Wholesale and retail trade;***
 - (d) ***Finance, insurance and real estate; and***
 - (e) ***Services;***

~~["Bonds" means the revenue bonds, notes, or other debt obligations of the authority authorized to be issued by the authority, eligible companies, or other state agency.]~~

- (9) "Commonwealth" means the Commonwealth of Kentucky;~~[-]~~
- (10) (a) "Economic development project" means and includes:
 1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;
 2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;
 3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and
 4. The new construction of an electric generation facility;~~[-]~~
- (b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the

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

- (11) ***"Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;***
- (12) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;[-]
- (13) ***"Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(K) or similar plans;***
- (14)~~(12)~~ "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;[-]
- ~~(13) "Financing agreement" means any agreement entered into, pursuant to KRS 154.22-010 to 154.22-080, on behalf of the authority or other lenders, or both, and an approved company with respect to an economic development project.]~~
- (15) ***"Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;***
- (16)~~(14)~~ "Inducements" means the assessment and the income tax credits allowed by KRS 154.22-060;[-]
- (17)~~(15)~~ "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;[-]
- (18)~~(16)~~ "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;[-]
- (19)~~(17)~~ "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;[-]
- (20)~~(18)~~ "Revenues" shall not be considered state funds;[-]
- (21)~~(19)~~ "State agency" shall have the meaning assigned to the term in KRS 56.440(8); ***and***

- (22) ***"Tax incentive agreement" means the agreement entered into, pursuant to Section 21 of this Act, between the authority and an approved company with respect to an economic development project.***

Section 20. KRS 154.22-040 is amended to read as follows:

- (1) Each year the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce Development, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent ***calendar year***~~[twelve (12) consecutive months for which unemployment figures are available]~~, and shall certify those counties as qualified counties. ***A county not certified on the basis of final unemployment figures may also be certified as a qualified county if the authority determines the county is one (1) of the sixty (60) most distressed counties in the Commonwealth based on the following criteria with equal weight given to each criterion:***
- (a) ***The average countywide rate of unemployment in the most recent three (3) consecutive calendar years, on the basis of final unemployment figures calculated by the Department for Employment Services in the Cabinet for Workforce Development;***
 - (b) ***In each county the percentage of adults twenty-five (25) years of age and older who have attained at least a high school education or equivalent, on the basis of the most recent data available from the United States Department of Commerce, Bureau of the Census; and***
 - (c) ***Road quality, as quantified by the access within a county to roads ranked in descending order from best quality to worst quality as follows: two (2) or more interstate highways, one (1) interstate highway, a state four (4) lane parkway, four (4) lane principal arterial access to an interstate highway, state two (2) lane parkway and none of the preceding road types, as certified by the Kentucky Transportation Cabinet to the authority.***

If the authority determines that a county which has previously been certified as a qualified county no longer~~[has an unemployment rate that]~~ meets the criteria of this subsection, the authority shall decertify that county. The authority shall not ***provide inducements for***~~[finance]~~ any facilities in that county and an approved company shall not be eligible for the ***inducements***~~[incentives]~~ offered by KRS 154.22-010 to 154.22-070 unless the ***tax incentive***~~[financing]~~ agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county. ***In addition, the authority shall certify coal-producing counties, not otherwise certified as qualified counties in this subsection, for economic development projects involving the new construction of electric generation facilities***~~[the authority shall certify every coal producing county as a qualified county]~~. A coal producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time. ***For economic development projects undertaken in a regional industrial park, as defined in Section 1 of this Act, or in an industrial park created pursuant to an interlocal agreement in which revenues are shared as provided in KRS 65.245, where the physical boundaries of the industrial park lie within two (2) or more***

counties of which at least one (1) of the counties is a qualified county under this section, an eligible company undertaking an economic development project within the physical boundaries of the industrial park may be approved for the inducements under KRS 154.22-010 to 154.22-080.

- (2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.
- (3) The economic development project shall involve a minimum investment of one hundred thousand dollars (\$100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.
- (4)
 - (a) *Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:*
 1. *Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or*
 2. *Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.*
 - (b) *If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.*

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

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

- (a) Rehabilitates *an agribusiness*,~~[a]~~ manufacturing, or electric generation facility:
1. Which has not been in operation for a period of ninety (90) or more consecutive days; or
 2. *For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or*
 3. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;
- (b) Replaces *an agribusiness*,~~[a]~~ manufacturing, or electric generation facility existing in the Commonwealth:
1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
 2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
- (c) Replaces an existing *agribusiness*, manufacturing, or electric generation facility located in the same qualified county, and the existing *agribusiness*, manufacturing, or electric generation facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the *agribusiness*, manufacturing, *or electric generation* facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the *agribusiness* manufacturing, or electric generation facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.
- ~~(6)~~~~(4)~~ With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval ~~and completion by the eligible company of its bond, loan, or other financing and review thereof by the authority,~~ the authority may by final approval designate an eligible company to be an approved company.

Section 21. KRS 154.22-050 is amended to read as follows:

The authority may enter into, with any approved company, a *tax incentive*~~[financing]~~ agreement with respect to its economic development project, upon adoption of a resolution authorizing the *tax incentive*~~[financing]~~ agreement. Subject to the inclusion of the mandatory provisions set forth

below, the terms and provisions of each *tax incentive*~~[financing]~~ agreement shall be determined by negotiations between the authority and the approved company.

- (1) *The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.*
- (2) *The approved company shall expend the authorized approved costs for the economic development project within three (3) years of the date of the final approval by the authority.*
- (3) *The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.*
- (4) *The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or fifteen (15) years after the activation date.*
- (5) *The tax incentive agreement shall include the activation date. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the tax incentive agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of subsection (3) of Section 20 of this Act by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the tax incentive agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of subsection (3) of Section 20 of this Act within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.*
- (6) *The approved company shall comply with the hourly wage criteria set forth in subsection (4) of Section 20 of this Act and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.*
- (7) *The approved company may be permitted the following inducements during the term of the tax incentive agreement:*
 - (a) *A one-hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; and*
 - (b) *The aggregate assessments withheld by the approved company in each year.*
- (8) *The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the period commencing with the date of final approval.*

- (9) *The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.*
- (10) *The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.*
- (11) *The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:*
- (a) *Suspend the income tax credits and assessments available to the approved company;*
 - (b) *Pursue any remedy provided under the tax incentive agreement, including termination thereof; and*
 - (c) *Pursue any other remedy at law to which it may be entitled.*
- (12) *All remedies provided in subsection (11) of this section shall be deemed to be cumulative.* ~~If an eligible company, at the time of submission of its application to the authority to become an approved company, requests the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with the issuance of bonds by the authority shall include the following provisions:~~
- ~~(a) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and, if the authority owns the economic development project, the authority may grant to the approved company or its affiliate an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.~~
 - ~~(b) All proceeds of any bonds incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of bonds incurred in connection with the economic development project are not fully expended within the three (3) year period, the amount of the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.~~
 - ~~(c) The financing agreement shall specify that the annual obligations of the approved company pursuant to KRS 154.22-010 to 154.22-080 shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.~~
 - ~~(d) 1. In consideration for financing agreement payment, the approved company may be permitted the following during the period of time not to exceed fifteen (15) years from the activation date in which the financing agreement is in effect,~~

~~which period of time shall commence for purposes of the following upon the date of the financing agreement.~~

- ~~a. — A one hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, the credit not to exceed the total debt service paid under the respective financing agreement; plus~~
 - ~~b. — The aggregate assessment withheld by the approved company in each year.~~
 - ~~2. — The income tax credited to the approved company referred to herein shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.~~
- ~~(e) —~~
- ~~1. — The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year; however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.~~
 - ~~2. — If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.~~
 - ~~3. — If in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.~~
 - ~~4. — If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and~~

~~applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees' wages next succeeding the first date when the approved company collected excess assessments.~~

~~(f) The financing agreement shall provide in substance that:~~

- ~~1. It may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to such effect; and~~
- ~~2. Upon default by the approved company in any obligations under the financing agreement or other documents evidencing, securing, or related to the approved company's obligations, the authority, or any of its assignees, shall have the right, at its option, to declare the financing agreement or other such documents in default; and~~
 - ~~a. Accelerate and declare the total of all such payments due by the approved company and sell the economic development project at public, private, or judicial sale;~~
 - ~~b. Pursue any remedy provided under the financing agreement or other such documents;~~
 - ~~c. Pursue all other remedies available to it under the Kentucky Uniform Commercial Code;~~
 - ~~d. Be entitled to the appointment of a receiver by the Circuit Court wherein any part of the economic development project is located; and~~
 - ~~e. Pursue any other remedy at law to which it appears entitled.~~
- ~~3. All remedies provided in subsection (1)(f)2. of this section shall be deemed cumulative.~~

~~(2) If an eligible company, at the time of submission of its application to the authority to become an approved company, does not request the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with loans or other financing (other than bonds issued by the authority for which subsection (1) of this section shall be used) shall include the following provisions:~~

- ~~(a) The term of a financing agreement, which shall commence on the date of the financing agreement, shall not be longer than:~~
 - ~~1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project; or~~
 - ~~2. Fifteen (15) years from the activation date.~~
 - ~~3. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing. The authority shall not own an economic development project that is the subject of this form of financing agreement.~~

~~(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3)~~

~~years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.~~

- ~~(c) 1. The approved company may be permitted the following during the term of the financing agreement:~~
- ~~a. A one hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, such credit not to exceed the total debt service paid with respect to the loans or other financing incurred in connection with the economic development project; plus~~
 - ~~b. The aggregate assessment withheld by the approved company in each year.~~
- ~~2. The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.~~
- ~~(d) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax as provided in KRS 154.22-060, shall not exceed the total annual debt service payments of the approved company with respect to the loans or other financing incurred in connection with the economic development project in any year; however, to the extent that such annual debt service payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.~~
- ~~2. If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company, plus the assessment collected from the wages of the employees, equals the annual debt service payments with respect to the loans or other financing incurred in connection with the economic development project, and if all excess payments with respect to the loans or other financing incurred in connection with the economic development project accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company and the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year.~~
- ~~3. If in any fiscal year of the approved company during which the financing agreement is in effect the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax.~~

- ~~4. If in any fiscal year of the approved company during which the financing agreement is in effect the assessment collected from the wages of the employees exceeds the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, the approved company shall resume normal personal income tax and occupational license fee withholdings from the employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for employees wages next succeeding the first date when the approved company collected excess assessments.~~
- ~~(e) The financing agreement shall provide in substance that it may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.~~
- ~~(f) The financing agreement shall provide that an approved company shall require of any lender to the approved company funding the loans or other financing incurred in connection with the economic development project written evidence to be provided to the authority of payments of all annual debt service to such lender. Such evidence shall be provided to the authority within forty five (45) days after the end of each fiscal year of the financing agreement.~~
- ~~(g) The financing agreement shall provide that if an approved company fails to comply with its respective obligations under the financing agreement, or that the lender to an approved company fails to comply with its requirements set forth in subsection (2)(f) of this section, or is declared in default under the loans or other financing incurred in connection with the economic development project, then the authority, or any of its assignees, shall have the right, at its option, to:~~
- ~~1. Suspend the availability of the income tax credits and job development assessment fees to the approved company;~~
 - ~~2. Pursue any remedy provided under the financing agreement, including termination thereof; and~~
 - ~~3. Pursue any other remedy at law to which it appears entitled.~~
- ~~(3) All remedies provided in subsection (2)(g) of this section shall be deemed cumulative.~~
- ~~(4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Revenue Cabinet, and the approved company's employees of the activation date when the implementation of the inducements authorized in the financing agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22 040(3) by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the fifteen (15) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.22~~

~~040(3) within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.]~~

Section 22. KRS 154.22-060 is amended to read as follows:

- (1) The approved company shall be entitled to a credit against the Kentucky income tax liability mandated by KRS Chapter 141, on any income that may result from the operation of the approved economic development project; the credit shall be equal to the total amount of the tax liability, and together with the aggregate assessments not to exceed the **maximum amount of inducements as set forth in the tax incentive agreement**~~[total debt service paid:~~
 - ~~(a) Under the financing agreement in connection with the economic development project financed by bonds as described in KRS 154.22-050(1); or~~
 - ~~(b) On loans or other financing, as described in KRS 154.22-050(2), incurred in connection with the economic development project, as described in KRS 154.22-050(2)].~~
- (2) By October 1 of each year, the Revenue Cabinet of the Commonwealth shall certify to the authority in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits equal to its total inducements.

Section 23. KRS 154.22-070 is amended to read as follows:

- (1) The approved company **or, with the authority's consent, an affiliate of the approved company** may require that each employee subject to state tax imposed by KRS 141.020, as a condition of employment, agree to pay **an**~~[a job development]~~ assessment~~[fee]~~, equal to four percent (4%) of the gross wages of each employee whose job was created as a result of the economic development project, for the purpose of **recovering authorized approved costs as set forth in the tax incentive agreement.**~~[retiring:~~
 - ~~(a) The bonds, as described in KRS 154.22-050(1), which fund the economic development project; or~~
 - ~~(b) The loans or other financing as described in KRS 154.22-050(2), incurred in connection with the economic development project.]~~
- (2) Each employee so assessed shall be entitled to credits against Kentucky income tax equal to the~~[job development]~~ assessment~~[fee]~~ withheld from wages during the calendar year as provided by KRS 141.310 and 141.350.
- (3) If an approved company shall elect to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each paycheck of each employee.
- (4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority documentation respecting the assessment as the authority may require.

~~[(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project pursuant to subsection (1) of this section shall permanently lapse on the date:~~

- ~~(a) The bonds, as described in KRS 154.22-050(1), are retired; or~~
- ~~(b) Any loans or other financing, as described in KRS 154.22-050(2), incurred in connection with the economic development project mature or are prepaid in full.]~~

SECTION 24. A NEW SECTION OF SUBCHAPTER 22 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

If the authority adopts a preliminary resolution designating an eligible company as an approved company and preliminarily approving the project of the eligible company as an economic development project prior to July 15, 2002, and the authority adopts a final resolution approving the eligible company as an approved company and the project of the eligible company as an economic development project, and the authority and the eligible company enter into a financing agreement no later than June 30, 2003, then the approved company thereafter shall be subject to KRS 154.22-010 to 154.22-100 as in effect prior to July 15, 2002.

Section 25. KRS 154.23-010 is amended to read as follows:

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

- (1) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;
- (2) "Approved costs" means:
 - (a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (6)(b)4. of this section:
 1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
 2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;
 3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;
 4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
 5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

6. All other costs of a nature comparable to those described above; or
- (b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;
- (3) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;
- (4) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;
- (5) ***"Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand and eighty (2,080) hour work year for the following sectors:***
- (a) ***Manufacturing;***
- (b) ***Transportation, communications and public utilities;***
- (c) ***Wholesale and retail trade;***
- (d) ***Finance, insurance and real estate; and***
- (e) ***Services;***
- (6) "Commonwealth" means the Commonwealth of Kentucky;
- (7)~~(6)~~ "Economic development project" or "project" means:
- (a) A service or technology activity conducted by an approved company; or
- (b) Any of the following activities of an approved company engaged in manufacturing:
1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;
 2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;
 3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of

utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and

4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;
- (8){(7)} "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;
- (9) *"Employee benefits" means non-mandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(K) or similar plans;*
- (10){(8)} "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;
- (11) *"Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;*
- ~~{(9) "Financing agreement" means any agreement entered into, under KRS 154.23-035, on behalf of the authority or other lenders, or both, and an approved company engaged in manufacturing with respect to an economic development project;}~~
- (12){(10)} "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;
- (13){(11)} "Local government" means a city, county, or urban-county government;
- (14){(12)} "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;
- (15){(13)} "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;
- (16){(14)} "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;
- (17){(15)} "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;
- (18){(16)} "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;

- (19)~~(17)~~ "Relocation costs" mean identified expenditures by an eligible company for moving costs, separation costs, and any other expenditures substantiated by the eligible company that are directly related to a move from an existing location outside of a qualified zone to a qualified zone location;
- (20)~~(18)~~ "Rent" means:
- (a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or
 - (b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and
 - (c) Rent shall include the customary cost of occupancy that includes, but is not limited to, property taxes, heating and air conditioning, electricity, sewer, and insurance;
- (21)~~(19)~~ "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;
- (22)~~(20)~~ "Service or technology" means any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication;~~and~~
- (23)~~(21)~~ "Start-up costs" mean the cost of furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and relocation costs as verified and approved by the authority in accordance with KRS 154.23-040;~~and~~
- (24) *"Tax incentive agreement" means that agreement entered into, pursuant to Section 29 of this Act, between the authority and an approved company with respect to an economic development project; and*
- (25) *"Affiliate" means the following:*
- (a) *Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;*
 - (b) *An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;*
 - (c) *An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;*
 - (d) *Two (2) corporations which are members of the same controlled group, which includes and is limited to:*

1. *One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:*
 - a. *Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and*
 - b. *The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or*
2. *Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;*
 - (e) *A grantor and a fiduciary of any trust;*
 - (f) *A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;*
 - (g) *A fiduciary of a trust and a beneficiary of that trust;*
 - (h) *A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;*
 - (i) *A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;*
 - (j) *A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;*
 - (k) *A corporation and a partnership, including a registered limited liability partnership, if the same persons own:*
 1. *More than fifty percent (50%) in value of the outstanding stock of the corporation; and*
 2. *More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;*
 - (l) *A corporation and a limited liability company if the same persons own:*
 1. *More than fifty percent (50%) in value of the outstanding stock of the corporation; and*
 2. *More than fifty percent (50%) of the capital interest or the profits in the limited liability company;*

- (m) *A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:*
 - 1. *More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and*
 - 2. *More than fifty percent (50%) of the capital interest or the profits in the limited liability company;*
- (n) *An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or*
- (o) *An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.*

Section 26. KRS 154.23-015 is amended to read as follows:

- (1) Upon written application by a county, urban-county government, or city of the first class, the authority shall certify one (1) to five (5) contiguous census tracts or a county certified by the authority in accordance with KRS 154.22-040 as a qualified zone. In the case of certification based on one (1) to five (5) contiguous census tracts, each census tract shall independently meet each of the following criteria, as verified by the Department for Employment Services within the Cabinet for Workforce Development:
 - (a) A minimum total poverty rate of one hundred fifty percent (150%) of the United States poverty rate as determined by the most recent decennial census;
 - (b) An unemployment rate that exceeds the statewide unemployment rate as determined on the basis of the most recent decennial census; and
 - (c) A minimum population density of two hundred percent (200%) of the average Kentucky census tract population density as determined by the most recent decennial census.
- (2) Census tract information shall be based upon United States census data as set forth in the most recent edition of Census of Population and Housing: Population and Housing Characteristics for Census Tracts and Block Numbering Areas published by the United States Bureau of the Census.
- (3) The authority shall certify no more than one (1) qualified zone within each county of the Commonwealth, except in the case of a county certified under KRS 154.22-040, the entire county shall constitute the qualified zone.
- (4) A qualified zone shall commence on the date of certification by the authority and continue thereafter, except that at the time new decennial census data becomes available, the authority shall decertify any census tract that no longer meets the criteria of subsection (1) of this section for qualified zone status. The authority shall not give preliminary approval to any project in a decertified census tract. An approved company whose project is located in a decertified census tract shall not be eligible for the inducements offered by KRS 154.23-005 to 154.23-079, unless the *tax incentive financing* agreement or service and technology

agreement is entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that tract.

- (5) Decertification of a census tract by the authority under subsection (4) of this section shall not be construed to split a qualified zone, change the boundary of the initial qualified zone, or create more than one (1) qualified zone per county.
- (6) A county, urban-county government, or city of the first class shall have no authority to request decertification of a census tract, and any addition of a census tract requested by a county, urban-county government, or city of the first class under KRS 154.23-020 shall be contiguous to a census tract that continues to meet the criteria under this section.
- (7) The authority shall pay its costs of counsel relating to zone certification.

Section 27. KRS 154.23-025 is amended to read as follows:

- (1) Relevant standards for approval of eligible companies and economic development projects shall include, but are not limited to, creditworthiness of the eligible company, the number of new jobs to be provided by a project to Kentucky residents, and the likelihood that the project will be an economic success.
- (2) An eligible company shall certify to the authority by written application that it makes the following commitments in an economic development project:
 - (a) A minimum investment of one hundred thousand dollars (\$100,000) in the project;
 - (b) Creation of a minimum of ten (10) new full-time jobs at the project site for qualified employees;
 - (c) A statement that no significant number of existing jobs in the Commonwealth will be lost or adversely affected due to approval of the eligible company and its economic development project; and
 - (d) A statement that the economic development project could reasonably and efficiently locate outside the qualified zone and, without the inducements offered by the authority, the eligible company would likely locate outside the zone.
- (3) (a) No project that will result in the replacement of an existing manufacturing or service or technology facility existing in the Commonwealth shall be approved by the authority; however, the authority may approve a project if the project *is one*:
 1. *a. That* rehabilitates a manufacturing or service or technology facility that has not been in operation; *or*
 - b. For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant;*~~;~~ *or*
 - c. To which* the title ~~to which~~ is vested in one other than the eligible company and that is sold or transferred under a foreclosure ordered by a court of competent jurisdiction or by order of bankruptcy court;
 2. Replaces a manufacturing or service or technology facility existing in the Commonwealth that been damaged or destroyed by fire, or the title to which shall have been taken under the exercise of the power of eminent domain or is the subject of a nonappealable judgment that grants the power of eminent

domain to the authority, in any of these events to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

3. Replaces an existing manufacturing or service or technology facility located in the same qualified zone that cannot be expanded due to the lack of available real estate at or adjacent to the manufacturing or service or technology facility to be replaced. Any economic development project satisfying the requirements of this paragraph of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing or service or technology facility to be replaced.
- (b) No economic development project otherwise satisfying the requirements of paragraph (a) of this subsection shall be approved by the authority that results in a lease abandonment or lease termination by the approved company without the consent of the lessor.
- (4) (a) *Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:*
 1. *Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or*
 2. *Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.*
- (b) *If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.*

Section 28. KRS 154.23-030 is amended to read as follows:

- (1) With respect to each eligible company that applies to the authority for inducements, and with respect to the project described in its application, the authority shall request materials and make all inquiries concerning the application the authority deems necessary. Upon review of the application and requested materials, and completion of initial inquiries, the authority may, by resolution of the board of directors, grant preliminary approval to the eligible company. The authority shall approve a report describing the economic development project, that shall set out as follows:
 - (a) The name, qualified zone location, business, and standard industrial classification of the eligible company;
 - (b) The nature of the economic development project;

- (c) The use and projected amounts of the inducements to be available to the eligible company by year; and
 - (d) Other information as the authority may require.
- (2) After preliminary approval, ~~completion of its loan, other financing or leasing as permitted by KRS 154.23-010(6)(b)4. by an eligible company engaged in manufacturing activities with respect to its economic development project, and review thereof by the authority,~~ the authority may, by resolution of its board of directors, designate an eligible company to be an approved company, and execute a **tax incentive**~~financing~~ agreement **between**~~among~~ the **approved**~~eligible~~ company **and**~~,~~ the authority~~, lenders, if applicable, and lessor, if applicable~~.
 - (3) Within a one (1) year period following preliminary approval of an eligible company engaged in service or technology activities with respect to its economic development project, the authority may designate the eligible company as an approved company and execute a service and technology agreement among the **approved**~~eligible~~ company, the authority, and lessors, if applicable. If final approval of an eligible company does not occur within the one (1) year period as provided in this subsection, then the eligible company's request for designation and project authorization shall be considered denied.
 - (4) The decision to grant an eligible company the status of an approved company shall be solely that of the authority, which shall base its decision upon consideration of all information provided.

Section 29. KRS 154.23-035 is amended to read as follows:

~~(1)~~ The authority, upon adoption of an authorizing resolution, may enter into a **tax incentive**~~financing~~ agreement with any approved company engaged in manufacturing activities with respect to its economic development project~~, other lenders, if applicable, and lessor, if applicable~~. The terms and provisions of each **tax incentive**~~financing~~ agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, subject to the inclusion of the following mandatory provisions:

- (1) *The tax incentive agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.*
- (2) *The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.*
- (3) *The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.*
- (4) *The term of the tax incentive agreement shall commence upon the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years after the activation date.*
- (5) *The tax incentive agreement shall include the activation date, which shall be a date selected by the approved company within two (2) years of the date of final approval by the authority of the tax incentive agreement. If the approved company does not satisfy the minimum investment and minimum employment requirements of Section 27 of this Act by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the tax incentive agreement shall begin*

from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of Section 27 of this Act within two (2) years from the date of final approval of the tax incentive agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

- (6) The approved company shall comply with the hourly wage criteria set forth in subsection (4) of Section 27 of this Act and provide documentation in connection with hourly wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.*
- (7) The approved company may be permitted the following inducements during the term of the tax incentive agreement:*
 - (a) A one-hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.401, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; and*
 - (b) The aggregate assessments withheld by the approved company each year.*
- (8) The total inducements may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with and after the date of final approval.*
- (9) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.*
- (10) The tax incentive agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.*
- (11) The tax incentive agreement shall provide that if the total number of full-time qualified employees at the site of the economic development project is less than ten (10), the authorized inducements shall be suspended until at least ten (10) full-time qualified employees are employed by the approved company at the project site.*
- (12) The tax incentive agreement shall provide that if an approved company fails to comply with its obligations under the tax incentive agreement then the authority shall have the right, at its option, to:*
 - (a) Suspend the income tax credits and assessments available to the approved company;*
 - (b) Pursue any remedy provided under the tax incentive agreement, including termination thereof; and*
 - (c) Pursue any other remedy at law to which it may be entitled.*
- (13) All remedies provided in subsection (12) of this section shall be deemed to be cumulative.*
- (14) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.*

- ~~{(a) The term of a financing agreement, that shall commence on the date of the financing agreement, and shall not be longer than the earliest of:~~
- ~~1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project;~~
 - ~~2. The termination of any lease under KRS 154.23-010(6)(b)4.; or~~
 - ~~3. Ten (10) years from the activation date of the original financing agreement.~~
 - ~~4. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing, or the financing of the balance of the purchase price of an economic development project originally leased in accordance with KRS 154.23-010(6)(b)4.~~
- ~~(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period;~~
- ~~(c) The approved company may be permitted the following inducements during the term of the financing agreement:~~
- ~~1. An income tax credit of up to one hundred percent (100%) of the Kentucky income tax liability imposed by KRS 141.020 or 141.040 that would otherwise be due, determined under KRS 141.401, on the income of the approved company generated by or arising out of the economic development project, as limited by the provisions of this section and KRS 154.23-045; and~~
 - ~~2. The assessment, if applicable, withheld by the approved company in each year;~~
- ~~(d) The income tax credit for the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042;~~
- ~~(e) The assessments, if applicable, when added to the credit for the Kentucky income tax as provided in KRS 154.23-050, shall not exceed the total annual payment made under the financing agreement in connection with the project in any year; however, to the extent that this annual payment exceeds credits received and assessments collected in any year, this excess payment may be recouped from excess credits or assessment collections in succeeding years;~~
- ~~(f) If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessments collected from the wages of the qualified statewide employees equals the annual payment in the financing agreement, and if all excess payments in the financing agreement accumulated in prior years have been recouped, the assessments collected from the wages of the qualified statewide employees shall cease for the remainder of~~

- that fiscal year, and the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees' wages for the remainder of that fiscal year;
- ~~(g) If, in any fiscal year of the approved company during which the financing agreement is in effect, the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the qualified statewide employees exceeds the annual payment in the financing agreement, and if all excess payments in the financing agreement accumulated in prior years have been recouped, the approved company shall pay the excess to the Commonwealth as income tax;~~
- ~~(h) If, in any fiscal year of the approved company during which the financing agreement is in effect, the assessment collected from the wages of qualified statewide employees exceeds the annual payment in the financing agreement, and if all excess payments in the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the qualified statewide employees shall cease for the remainder of that fiscal year, the approved company shall resume normal personal income tax and occupational license fee withholdings from the qualified statewide employees' wages for the remainder of that fiscal year, and the approved company shall remit to the Commonwealth and applicable local jurisdictions their respective shares of the excess assessment collected on the withholding filing date for qualified statewide employees' wages next succeeding the first date when the approved company collected excess assessments;~~
- ~~(i) The financing agreement may be assigned by the approved company only upon the prior written consent of the authority;~~
- ~~(j) An approved company shall require any lender to the approved company funding loans or other financing incurred in connection with the economic development project to provide written evidence to the authority of payments of all annual debt service to the lender. An approved company shall require any lessor under a lease subject to KRS 154.23-010(6)(b)4. to provide written evidence to the authority of payment of rent to the lessor. This evidence shall be provided to the authority within forty five (45) days after the end of each fiscal year during the term of the financing agreement;~~
- ~~(k) If the total number of qualified employees at the site of the economic development project is less than ten (10), the authorized inducements shall be suspended until at least ten (10) full-time qualified employees are employed by the approved company at the project site;~~
- ~~(l) If an approved company fails to comply with its respective obligations under the financing agreement or is declared in default under the loans or other financing incurred in connection with the economic development project or the lease under KRS 154.23-010(6)(b)4., or if the lender to an approved company or the lessor, as applicable, fails to comply with its requirements set forth in subsection (1)(j) of this section, then the authority, or any of its assignees, shall have the right, at its option, to:~~
- ~~1. Suspend the availability of the income tax credits and assessments to the approved company;~~
 - ~~2. Pursue any remedy provided under the financing agreement, including termination thereof; and~~

- ~~3. Pursue any other remedy at law to which it appears entitled; and~~
- ~~(m) The approved company shall pay all costs of counsel to the authority resulting from approval of its economic development project.~~
- ~~(2) All remedies provided in subsection (1)(l) of this section shall be deemed cumulative.~~
- ~~(3) Under this section, the activation date shall be established by the approved company in the financing agreement, which shall be at any time within a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the approved company's qualified statewide employees, and the affected local jurisdictions, if any, of the activation date when implementation of the inducements authorized in the financing agreement shall occur. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 by the activation date, then the approved company shall not be entitled to receive inducements under KRS 154.23-005 to 154.23-079 until the approved company satisfies the requirements; in any event, the ten (10) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.23-025 within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under KRS 154.23-005 to 154.23-079.]~~

Section 30. KRS 154.23-045 is amended to read as follows:

- (1) If an eligible company operates an existing business in a qualified zone, and wishes to expand that business within the zone, the eligible company may submit an application to the authority to become an approved company under KRS 154.23-025.
- (2) If the eligible company under subsection (1) of this section becomes an approved company, the authority shall determine a base level of employment in the Commonwealth, a base level of state income tax liability, and a base level of manufacturing or service or technology activity, as applicable, of the approved company for determining eligible credits for the approved company's project during the term of a *tax incentive*{~~financing~~} agreement or service and technology agreement. The base level shall be determined by taking into consideration any seasonal fluctuations or aberrations of employment levels during the preceding three (3) years. Notwithstanding the determination of a base level of employment in the Commonwealth, no qualified statewide employee who is an employee of this business prior to the date of the preliminary approval by the authority as prescribed in KRS 154.23-030 shall be subject to assessment.
- (3) The authority shall identify, by name, all of the existing qualified statewide employees employed by the eligible company prior to preliminary approval, and these employees shall be exempt from the assessment. If any of these employees cease working in the activity, then another qualified statewide employee shall be added to the base level of employment, based on the earliest date of entry into the work force, and this employee shall be exempt from the assessment. The authority may negotiate with the approved company a different method of determining the base level of employment that would yield a more equitable result for the approved company, the Commonwealth, local jurisdictions, and the qualified statewide employees.

- (4) To become eligible for inducements, the approved company shall create and maintain above the base level of employment in the Commonwealth, an increase at the site of the project of at least ten (10) new full-time qualified employees.
- (5) The approved company shall continue to pay to the Commonwealth, on an annualized basis during the term of the *tax incentive*~~financing~~ agreement or service and technology agreement, as applicable, the base level of income tax, adjusted on an annual basis to reflect changes in the consumer price index. The excess income tax owed may be offset by the income tax credit provided in KRS 154.23-050.
- (6) If any approved company expands in a qualified zone because of an increase in business or because of the commencement of a new line of business, it may be eligible, at the discretion of the authority, to negotiate a separate, additional *tax incentive*~~financing~~ agreement or service and technology agreement to cover the expanded business under the same conditions as authorized for an expansion in this section.

Section 31. KRS 154.23-055 is amended to read as follows:

- (1) If the local jurisdiction in which the economic development project is to be located, approves the assessment in accordance with subsection (8) of this section, then an approved company engaged in either manufacturing or service or technology activities may require each qualified statewide employee, as a condition to employment, to agree to pay ~~an~~~~a job development~~ assessment ~~fee~~ in an amount determined by the percentage of the local occupational license fee, which shall be one-fifth (1/5) of the total ~~job development~~ assessment ~~fee~~, plus the Commonwealth's contribution of four-fifths (4/5) of the total ~~job development~~ assessment ~~fee~~, but in no event to exceed five percent (5%) of the qualified statewide employee's gross wages exclusive of any noncash benefits; provided that each qualified statewide employee paying the assessment shall be entitled to credits against Kentucky income tax as prescribed in subsection (4) of this section and to credits against the local occupational license fee to the extent of the local occupational license fee collected by the local jurisdiction. This assessment shall be deducted by the approved company from wages it pays to qualified statewide employees.
- (2) Notwithstanding subsection (1) of this section, if no local occupational license fee is assessed by any local government in which the project is located, the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth.
- (3) Notwithstanding subsection (1) of this section, if a project is located in only one (1) local government and that local government has a local occupational license fee that is less than one percent (1%) and the local government agrees to forgo all of its local occupational license fee or if a project is located in multiple local governments and the local governments have in the aggregate local occupational license fees that are less than one percent (1%) and the local governments agree to forgo all of their local occupational license fees, then the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth, plus the percentage of the local occupational license fee or fees, as applicable, that the local government or local governments, as applicable, has or have agreed to forgo.
- (4) Each qualified statewide employee required to pay this assessment shall be entitled to certain credits, as follows:

- (a) Credit against the required Kentucky income tax withheld from gross wages under KRS 141.310 equal to the Commonwealth's contribution, but in no event to exceed four percent (4%) of these wages; and
 - (b) Credit against the local occupational license fee imposed by any local government in which the project is located in the form of a simultaneous adjustment of the local occupational license fee withheld from gross wages excluding noncash benefits not to exceed one percent (1%) of these wages.
- (5) If more than one (1) local government jurisdiction imposes a local occupational license fee and all jurisdictions approve the assessment, then the assessment and employee credit therefor shall be prorated against the local occupational license fees imposed, unless a single local government jurisdiction agrees to forgo receipt of its local occupational license fees in an amount equal to one percent (1%) of the qualified statewide employees' wages excluding noncash benefits, in which case no proration need be made.
- (6) No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction.
- (7) An approved company that collects an assessment shall make its payroll, books, and records available to the authority at its request, and shall provide all documentation pertaining to the assessment as the authority may require.
- (8) Before any *tax incentive*~~[financing]~~ agreement or service and technology agreement becomes effective with respect to an assessment, the legislative body of any local government that assesses a local occupational license fee and shall lose revenue as a result of the assessment described in this section shall, by official action, approve the assessment for the benefit of an approved company. However, if a local government does not approve the assessment, then the approved company shall not be permitted to impose the assessment and the qualified statewide employees shall not be permitted to claim credits.
- ~~[(9) Any assessment of the wages of qualified statewide employees of an approved company engaged in manufacturing activities in connection with their employment at an economic development project in subsection (1) of this section shall permanently lapse as of the date any loans or other financing, as described in KRS 154.23-035, incurred in connection with the economic development project mature or are prepaid in full for an approved company engaged in manufacturing activities or as of any date any lease under KRS 154.23-010(6)(b)4. terminates.]~~
- ~~(9)~~~~[(10)]~~ Any assessment of the wages of qualified statewide employees of an approved company engaged in service or technology activities in connection with their employment at an economic development project shall permanently cease at the expiration of the service and technology agreement.

Section 32. KRS 154.24-010 is amended to read as follows:

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

- (1) *"Affiliate" means the following:*
 - (a) *Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;*

- (b) *An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;*
- (c) *An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;*
- (d) *Two (2) corporations which are members of the same controlled group, which includes and is limited to:*
 - 1. *One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:*
 - a. *Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and*
 - b. *The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or*
 - 2. *Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;*
- (e) *A grantor and a fiduciary of any trust;*
- (f) *A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;*
- (g) *A fiduciary of a trust and a beneficiary of that trust;*
- (h) *A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;*
- (i) *A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;*
- (j) *A fiduciary of a trust and a limited liability company, of which more than fifty percent (50%) of the capital interest, or the interest in profits, is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;*
- (k) *A corporation and a partnership, including a registered limited liability partnership, if the same persons own:*
 - 1. *More than fifty percent (50%) in value of the outstanding stock of the corporation; and*

2. *More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;*
 - (l) *A corporation and a limited liability company if the same persons own:*
 1. *More than fifty percent (50%) in value of the outstanding stock of the corporation; and*
 2. *More than fifty percent (50%) of the capital interest or the profits in the limited liability company;*
 - (m) *A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:*
 1. *More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and*
 2. *More than fifty percent (50%) of the capital interest or the profits in the limited liability company;*
 - (n) *An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or*
 - (o) *An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;*
- (2) "Agreement" means *the service and technology*~~[any]~~ agreement made pursuant to KRS 154.24-120, between the authority and an approved company with respect to an economic development project;
- (3)~~(2)~~ "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to KRS 154.24-100;
- (4)~~(3)~~ "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a maximum of ten thousand dollars (\$10,000) per new full-time job created and to be held by a Kentucky resident subject to the personal income tax of the Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;
- (5)~~(4)~~ "Assessment" means the "service and technology job creation assessment fee" authorized by KRS 154.24-110;
- (6)~~(5)~~ "Authority" means the Kentucky Economic Development Finance Authority, *as* created in KRS 154.20-010;
- (7) "*Average hourly wage*" means *the most current wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand and eighty (2,080) hour work year for the following sectors:*
 - (a) *Manufacturing;*

- (b) *Transportation, communications, and public utilities;***
 - (c) *Wholesale and retail trade;***
 - (d) *Finance, insurance, and real estate; and***
 - (e) *Services;***
- (8)~~(6)~~** "Commonwealth" means the Commonwealth of Kentucky;
- (9)~~(7)~~** "Economic development project" or "project" means a service or technology activity conducted by an approved company;
- (10)~~(8)~~** "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;
- (11) *"Employee benefits" means nonmandated costs paid by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;***
- (12)~~(9)~~** "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;
- (13) *"Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state tax imposed by KRS 141.020;***
- (14)~~(10)~~** "In lieu of credits" means a local government appropriation to the extent permitted by law, or other form of local government grant or service benefit, directly related to the economic development project and in an amount equal to one percent (1%) of employees' gross wages, exclusive of any noncash benefits provided to an employee, or the provision by a local government of an in-kind contribution directly related to the economic development project and in an amount equal to one half (1/2) of the rent for the duration of the agreement;
- (15)~~(11)~~** "Inducements" means the income tax credits allowed and the assessment authorized by KRS 154.24-110, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;
- (16)~~(12)~~** "Person" means an individual, sole proprietorship, partnership, registered limited liability partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation, any instrumentality, division, political subdivision, district, court, agency, or department thereof;
- (17)~~(13)~~** "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;
- (18)~~(14)~~** "Relocation costs" means the identified expenditures by the company for moving costs, separation costs, and any other expenditures substantiated by the company which directly related to the move from an existing location outside of Kentucky to locations approved by the authority;
- (19)~~(15)~~** "Rent" means:

- (a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or
 - (b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized;
 - (c) Rent shall include the customary cost of occupancy including, but not limited to, property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;
- (20)~~(16)~~ "Service or technology" means any activity involving the performance of work not otherwise classified by division, including successor divisions of agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual," as revised by the United States Office of Management and Budget from time to time, or any successor publication. A company otherwise engaged in an ineligible activity may operate a service and technology activity in a separate division and, with the approval of the authority and subject to the record keeping requirements established by the authority, the service and technology activity may be deemed an eligible activity; and
- (21)~~(17)~~ "Start-up costs" means the *acquisition* cost of furnishing and equipping the building for ordinary business functions, including computers, ~~nonrecurring costs of fixed telecommunication equipment,~~ furnishings, office equipment, ~~and~~ relocation costs, *and nonrecurring costs of fixed telecommunication equipment* as verified and approved by the authority in accordance with KRS 154.24-130.

Section 33. KRS 154.24-090 is amended to read as follows:

The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A, regarding the approval of eligible companies and economic development projects conducted by those companies. The criteria for approval of eligible companies and economic development projects shall include, but not be limited to, the following criteria:

- (1) A determination by the authority that more than seventy-five percent (75%) of services provided by the eligible company from the proposed project shall be provided for persons located outside the Commonwealth during each year of the period during which it receives inducements as authorized in KRS 154.24-110;
- (2) The economic development project shall result in the creation by the eligible company of a minimum of *fifteen (15)*~~twenty five (25)~~ new full-time jobs for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth *at the activation date which shall occur* within one (1) year of the date of the final resolution authorizing the economic development project. The authority may extend this one (1) year period upon the written application of an eligible company requesting an extension;
- (3) (a) *Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:*

1. *Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or*
 2. *Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.*
- (b) *If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the base hourly wages, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wages through increased hourly wages combined with employee benefits;*

~~(4)(3)~~ Written evidence that:

- (a) Approval of the economic development project and the resulting inducements to be offered are essential to the creation of new jobs in the Commonwealth by an eligible company in connection with its economic development project; and
- (b) No significant number of existing jobs in the Commonwealth will be lost, or adversely affected, due to the designation of an eligible company as an approved company, and to the approval of the eligible company's economic development project; and

~~(5)(4)~~ That the economic development project could reasonably and efficiently locate outside of the Commonwealth and, without the inducements offered by the authority, the eligible company would likely locate outside the state.

Section 34. KRS 154.24-110 is amended to read as follows:

- (1) The approved company shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax that would otherwise be due to the Commonwealth by the approved company attributable to the economic development project, as limited by the provisions of this section and KRS 154.24-130. The amount of the approved company's income that is attributable to the economic development project shall be determined under KRS 141.407.
 - (a) The income tax credit allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the approved company for which the tax return of the approved company is filed; and
 - (b) By October 1 of each year, the Revenue Cabinet of the Commonwealth shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year, and assessments taken by approved companies with respect to their economic development projects during the prior calendar year under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits and assessments equal to its total inducements.

- (2) The approved company *or, with the authority's consent, an affiliate of the approved company* may require each employee, subject to state tax imposed by KRS 141.020, as a condition of employment, to agree to pay a service and technology job creation assessment fee up to five percent (5%) of the gross wages exclusive of any noncash benefits provided to an employee for each employee whose job has been deemed by the authority to be created as a result of the economic development project, provided that the service and technology job creation assessment fee shall not exceed the amount determined in accordance with KRS 154.24-150(5) if the circumstances in that subsection apply. Where a person is already employed by the approved company at a site other than the site of the economic development project and where that employee is subject to state tax imposed by KRS 141.020, the employee's job shall be deemed to have been created when the employee is transferred to the site of the economic development project, provided that the employee's existing job is filled with a new employee.
- (a) Each employee paying the assessment shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 equal to four-fifths (4/5) of the assessment;
 - (b) If the assessment has been approved by the local jurisdiction as provided in KRS 154.24-150, each employee paying the assessment also shall be entitled, in the local jurisdiction in which the economic development project is located, to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-fifth (1/5) of the assessment. If more than one (1) local tax is incurred, the one-fifth (1/5) assessment shall be prorated proportionately among the taxes unless one (1) local jurisdiction agrees to forgo the receipt of these taxes in an amount equal to the one-fifth (1/5) assessment, in which case no proration need be made;
 - (c) If an approved company elects to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each payment of wages to the employee;
 - (d) No credit, or portion thereof, shall be allowed against any occupational license fee imposed by or dedicated solely to the board of education in a local jurisdiction;
 - (e) The approved company collecting an assessment shall make its payroll, books, and records available to the authority when the authority shall request, and shall file with the authority documentation pertaining to the assessment as the authority may require; and
 - (f) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project shall permanently cease at the expiration of the agreement.
- (3) Notwithstanding subsection (2) of this section, if a local government in which the project is located has a local occupational license fee that is less than one percent (1%) and agrees to forgo all of its local occupational license fee, then the assessment shall be four percent (4%), all of which shall be contributed by the Commonwealth, plus the percentage of the local occupational license fee that the local government has agreed to forgo. Each employee paying the assessment under this subsection shall be entitled to a credit against Kentucky income tax, under KRS 141.350, equal to four percent (4%) and a credit against the local

occupational license fee equal to the local occupational license fee that the local jurisdiction has agreed to forgo.

Section 35. KRS 154.24-120 is amended to read as follows:

Before any approved company is granted inducements as prescribed in KRS 154.24-010 to 154.24-150, a service and technology agreement with respect to the company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

- (1) The term of an agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within a one (1) year period after the date of final approval of the agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the employees, and the affected local ~~jurisdictions~~^{jurisdiction}, if any, of the activation date on which implementation of the inducements authorized in the agreement shall occur.
- (2) The agreement shall include:
 - (a) A description of the authorized inducements to be used by the approved company;
 - (b) A provision that, if the total number of full-time employees at the site of the economic development project who are residents of the Commonwealth and ~~who are~~ subject to the Kentucky income tax is less than **fifteen (15)**~~twenty-five (25)~~, or in the case of an existing Kentucky business the approved company fails to maintain the increase of at least **fifteen (15)**~~twenty-five (25)~~ full-time employees who are residents of the Commonwealth and ~~who are~~ subject to the Kentucky income tax, the authorized inducements shall be suspended until the number of full-time employees at the site of the economic development project who are residents of the Commonwealth and ~~who are~~ subject to the Kentucky income tax equals or exceeds **fifteen (15)**~~twenty-five (25)~~; or in the case of an existing Kentucky business until the maintenance requirement of subsection (4) of KRS 154.24-140 is satisfied;
 - (c) A provision that, if seventy-five percent (75%) or less of services provided by the approved company from the economic development project should be provided to persons located outside of the Commonwealth during any fiscal year of the approved company as prescribed in KRS 154.24-090, the authorized inducements shall be suspended until the percentage of these services again exceeds seventy-five percent (75%) for a full fiscal year of the approved company; and
 - (d) A provision that neither income tax credits nor assessments are assignable without written consent by the authority.

Section 36. KRS 154.24-140 is amended to read as follows:

- (1) If an eligible company operates an existing service and technology business in Kentucky, and wishes to expand that business within the Commonwealth, the eligible company may submit an application to the authority to become an approved company and eligible for the inducements offered in KRS 154.24-010 to 154.24-150.

- (2) If an existing business becomes an approved company, the authority shall determine a base level of employment, a base level of state income tax liability, and a base level of services of the approved company for determining eligible credits in remaining years of the approved company's project period. The base level shall be determined by taking into consideration any seasonal fluctuations or aberrations of employment levels over a preceding three (3) year period. Notwithstanding the determination of a base level of employment, no employee of the existing business who is an employee of such business prior to the date of the preliminary resolution of the authority as prescribed in KRS 154.24-100 shall be subject to assessment.
- (3) The authority shall identify, by name, all of the existing employees engaged in the service and technology activity, and these employees shall be exempt from the assessment. If any of these employees cease working in the activity, another employee shall be added to the base level of employment, based on the earliest date of entry into the work force, and he shall be exempt from the assessment. The authority may negotiate with the approved company a different method of determining the base level of employment which would yield a more equitable result for the approved company, the Commonwealth, local jurisdictions, and the employees.
- (4) To become eligible for inducements, the approved company shall create and maintain above the base level of employment an increase at the site of the economic development project of at least *fifteen* (15)~~[twenty five (25)]~~ full-time employees who are residents of the Commonwealth,~~[and who are]~~ subject to the Kentucky income tax.
- (5) The approved company shall continue to pay to the Commonwealth, on an annualized basis during the term of the agreement, the base level of income tax, adjusted on an annual basis to reflect changes in the consumers price index. Any excess income tax owed may be taken as a credit.
- (6) If any approved company expands because of an increase in business or because of the commencement of a new line of business, it shall be eligible, at the discretion of the authority, to negotiate a separate and additional agreement to cover the expanded business under the same conditions as authorized for expansion in this section.

Section 37. KRS 154.28-010 is amended to read as follows:

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

- (1) ***"Activation date" means a date selected by an approved company in the agreement at any time within the two (2) year period after the date of final approval of the agreement by the authority;***
- (2) ***"Affiliate" means the following:***
 - (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
 - (b) An individual and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
 - (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for that individual;

- (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
 - 1. One (1) or more *chains*~~[claims]~~ of corporations connected through stock ownership with a common parent corporation if:
 - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
 - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing such voting power or value, stock owned directly by the other corporations; or
 - 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
- (e) A grantor and a fiduciary of any trust;
- (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
- (g) A fiduciary of a trust and a beneficiary of that trust;
- (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
- (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (j) A fiduciary of a trust and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
- (k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:
 - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
 - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;
- (l) A corporation and a limited liability company if the same persons own:
 - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
 - (m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:
 1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
 2. More than fifty percent (50%) of the capital interest or profits in the limited liability company;
 - (n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or
 - (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation: S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.
- (3)~~(2)~~ "Agreement" means *the tax incentive*~~[an]~~ agreement entered into, pursuant to KRS 154.28-090, *between*~~[on behalf of]~~ the authority and an approved company with respect to an economic development project;
- (4)~~(3)~~ "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;
- ~~[(4) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;]~~
- (5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;
- (6) "Approved costs" means:
- (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;
 - (b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;
 - (c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

- (d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;
 - (e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and
 - (f) All other costs comparable to those described above;
- (7) "Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;
- (8) "Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;
- (9) *"Average hourly wage" means the most current wage and employment data published by the Department for Employment Services in the Kentucky Cabinet for Workforce Development collectively translated into wages per hour based on a two thousand and eighty (2,080) hour work year for the following sectors:*
- (a) *Manufacturing;*
 - (b) *Transportation, communications, and public utilities;*
 - (c) *Wholesale and retail trade;*
 - (d) *Finance, insurance, and real estate; and*
 - (e) *Services;*
- (10) "Commonwealth" means the Commonwealth of Kentucky;
- (11)~~(10)~~ (a) "Economic development project" or "project" means and includes:
1. The acquisition of ownership in any real estate by the approved manufacturing~~], electric generation,]~~ or agribusiness company or its affiliate;
 2. The present ownership of real estate by the approved manufacturing~~], electric generation,]~~ or agribusiness company or its affiliate; *or*
 3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more~~]; or~~
 - ~~4. The new construction of an electric generation facility in a coal producing county. A coal producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time].~~
- (b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and

equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars (\$10,000) per job created by and maintained at the economic development project;

- (12)~~(11)~~ "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, trust, or any other entity engaged in manufacturing~~[-, electric generation,]~~ or agribusiness operations;
- (13) *"Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(K) or similar plans;*
- (14) *"Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;*
- (15)~~(12)~~ "Inducement" means the assessment ~~or~~~~and~~ the Kentucky income tax credit as set forth in KRS 154.28-090;
- (16)~~(13)~~ "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals; and
- (17)~~(14)~~ "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

Section 38. KRS 154.28-080 is amended to read as follows:

- (1) The authority shall promulgate standards for the determination and approval of eligible companies and their economic development projects in accordance with KRS Chapter 13A.
- (2) The standards for approval of eligible companies and economic development projects shall include, but not be limited to: the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to the residents of the Commonwealth; and the likelihood of the economic success of the economic development project.
- (3) The economic development project shall involve a minimum investment of one hundred thousand dollars (\$100,000) by the eligible company and shall result in the creation by the

eligible company, within two (2) years from the date of the final resolution authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development projects for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.

- (4) (a) *Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:*
1. *Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or*
 2. *Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken;*
- (b) *If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits;*
- (5) No economic development project which will result in the replacement of a manufacturing~~[- electric generation,]~~ or agribusiness facility existing within the Commonwealth shall be approved by the authority; however, the authority may approve an economic development project that:
- (a) Rehabilitates a manufacturing~~[- electric generation,]~~ or agribusiness facility:
1. Which has not been in operation for a period of ninety (90) or more consecutive days; or
 2. *For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or*
 3. *To which* the title~~[- to which]~~ is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;
- (b) Replaces a manufacturing or *agribusiness*~~[- electric generation]~~ facility existing in the Commonwealth:
1. *To which* the title~~[- to which]~~ shall have been taken under the exercise of the power of eminent domain, or *to which* the title~~[- to which]~~ shall be the subject of a nonappealable judgment granting the authority to exercise the power of

eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
- (c) Replaces an existing manufacturing or *agribusiness*~~[electric-generation]~~ facility located in the same~~[qualified]~~ county that cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing or *agribusiness*~~[electric-generation]~~ facility to be replaced. Any economic development project satisfying the requirements of this subsection shall be eligible only for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing or *agribusiness*~~[electric-generation]~~ facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority that results in a lease abandonment or lease termination by the eligible company without the consent of the lessor.
- ~~(6)(5)~~ With respect to each eligible company making an application to the authority for inducements, and with respect to these economic development projects described in the application which do not involve an expansion, the authority shall make inquiries and request materials of the applicant, including, but not limited to, written evidence that except for the receipt of inducements authorized by KRS 154.28-015 to 154.28-090 and KRS 141.400, the eligible company will not locate its economic development project within the Commonwealth. Upon the review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project.
- ~~(7)(6)~~ After a diligent review of the relevant materials and completion of its inquiries, the authority, by resolution of its board of directors, may designate an eligible company to be an approved company.
- ~~(8)(7)~~ All meetings of the board of directors of the authority shall be held in accordance with KRS 61.805 to 61.850. The board of directors of the authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 39. KRS 154.28-090 is amended to read as follows:

~~(1)~~ The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, *an*~~[a financing]~~ agreement with respect to its economic development project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

- (1) *The agreement shall set forth the maximum amount of inducements available to the approved company for recovery of the approved costs authorized by the authority and expended by the approved company.*
- (2) *The approved company shall expend the authorized approved costs within three (3) years of the date of the final approval by the authority.*

- (3) *The approved company shall provide the authority with documentation as to the expenditures for approved costs in a manner acceptable to the authority.*
- (4) *The agreement shall include the activation date and will terminate upon the earlier of the full receipt of the maximum amount of inducements by the approved company or ten (10) years from the activation date. To implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, and the approved company's employees of the activation date on which implementation of the inducements authorized in the agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of the economic development project under subsection (11) of Section 37 of this Act shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of subsection (3) of Section 38 of this Act by the activation date, the approved company shall not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies the requirements; however, the ten (10) year period for the term of the agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of subsection (3) of Section 38 of this Act within two (2) years from the date of final approval of the agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.*
- (5) *The approved company shall comply with the wage criteria set forth in subsection (4) of Section 38 of this Act and provide documentation in connection with wages paid to its full-time employees hired as a result of the economic development project in a manner acceptable to the authority.*
- (6) *The approved company may be permitted one of the following inducements during the term of the agreement and shall select the applicable inducement at the time of final approval by the authority:*
 - (a) *A one hundred percent (100%) credit against the Kentucky income tax that would otherwise be owed in the approved company's fiscal year, as determined under KRS 141.400, to the Commonwealth by the approved company on the income of the approved company generated by or arising from the economic development project; or*
 - (b) *The aggregate assessments pursuant to Section 40 of this Act withheld by the approved company each year.*
- (7) *Either the total income tax credit or assessments may not exceed authorized cumulative approved costs paid by the approved company in the three (3) year period commencing with the date of final approval.*
- (8) *If the approved company elects to use the income tax credit, the income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042 on the Kentucky taxable income generated by or arising from the economic development project.*
- (9) *The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.*

- (10) *The agreement shall provide that if an approved company fails to comply with its obligations under the agreement then the authority shall have the right, at its option, to:*
- (a) *Suspend either the income tax credits or assessments available to the approved company;*
 - (b) *Pursue any remedy provided under the agreement, including termination thereof; and*
 - (c) *Pursue any other remedy at law to which it may be entitled.*
- (11) *All remedies provided in subsection (10) of this section shall be deemed to be cumulative.*
- ~~[(a) The term of an agreement, which shall commence on the date of the agreement, shall not be longer than the earlier of the following:~~
- ~~1. The maturity of loans or other financing incurred in connection with the economic development project, except that the agreement may be terminated upon the earlier prepayment of loans or other financing incurred in connection with the economic development project; or~~
 - ~~2. Ten (10) years from the activation date of the original agreement.~~
- ~~(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.~~
- ~~(c) In consideration for the execution and during the term of the agreement, the approved company shall be permitted either of the following during the term of the agreement:~~
- ~~1. A credit against Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the economic development project as determined by KRS 141.400; or~~
 - ~~2. The aggregate assessment withheld by the approved company in each year.~~
- ~~(2) The agreement shall provide that:~~
- ~~(a) 1. The assessments, if applicable, shall not exceed the annual payments of the total financing agreement by the approved company in any year; however, to the extent that the financing agreement annual payments exceed assessments collected in any year, the excess payment may be recouped from assessment collections in succeeding years.~~
 - ~~2. If in any fiscal year of the approved company during which the financing agreement is in effect the total assessments collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessments collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax withholdings from employees' wages for the remainder of that fiscal year.~~

- ~~(b) The Kentucky income tax credit, in any fiscal year of the approved company, shall not exceed the total debt service paid during the same fiscal year with respect to the loans or other financing incurred in connection with the economic development project; however, to the extent that annual debt service payments exceed the annual income tax credits in any year, the excess debt service payments may be recouped from excess tax credits in succeeding years.~~
- ~~(c) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.042.~~
- ~~(d) The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.~~
- ~~(e) An approved company shall require of any lender to an approved company funding the loans or other financing incurred in connection with the economic development project, written evidence of all annual debt service to the lender, which evidence shall be provided in writing to the authority within forty-five (45) days following the close of each fiscal year of the financing agreement.~~
- ~~(f) If an approved company fails to comply with its respective obligations under the financing agreement, the lender to an approved company fails to comply with the provisions of subsection (2)(e) of this section, or an approved company is declared in default under the loans or other financing incurred in connection with the economic development project, the authority, or any of its assignees, may, at its option:
 - ~~1. Suspend the availability of the income tax credits or job development assessment fees, as applicable;~~
 - ~~2. Pursue any remedy provided under the financing agreement, including termination of the agreement; and~~
 - ~~3. Pursue any other remedy at law to which it may appear entitled.~~~~
- ~~(3) All remedies provided in subsection (2)(f) of this section shall be deemed cumulative.~~
- ~~(4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement which shall be at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, and the approved company's employees of the activation date on which implementation of the inducements authorized in the financing agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of an economic development project under KRS 154.28 010(10) shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) by the activation date, the approved company will not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies these requirements; however, the ten (10) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) within two (2) years from the date of final approval of~~

~~the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.]~~

- ~~(12)~~~~(5)~~ By October 1 of each year, the Revenue Cabinet shall certify to the authority, in the form of an annual report, aggregate income tax credits claimed on tax returns filed during the fiscal year ending June 30 of that year and assessments taken during the prior calendar year by approved companies with respect to their economic *development*~~[revitalization]~~ projects under this subchapter, and shall certify to the authority, within ninety (90) days from the date an approved company has filed its state income tax return, when an approved company has taken income tax credits *or*~~[and]~~ assessments equal to its total inducements.

Section 40. KRS 154.28-110 is amended to read as follows:

- (1) The approved company *or, with the authority's consent, an affiliate of the approved company* may require, in lieu of receiving the income tax credits described in KRS 154.28-090, that each employee subject to state tax imposed by KRS 141.020, as a condition of employment, agree to pay *an*~~[a job development]~~ assessment~~[fee]~~, equal to three percent (3%) of the gross wages of each employee whose job was created as a result of the economic development project, for the purpose of *recovering authorized approved costs as set forth in the agreement*~~[retiring the loans or other financing, as described in KRS 154.28-090, incurred in connection with the economic development project].~~
- (2) Each employee so assessed shall be entitled to a credit against Kentucky income tax withheld as provided by KRS 141.310 and 141.350 equal to the~~[job development]~~ assessment~~[fee]~~ withheld from his or her wages during the calendar year.
- (3) If an approved company shall elect to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each paycheck of each employee.
- (4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority documentation respecting the assessment as the authority may require.

~~(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project pursuant to subsection (1) of this section shall permanently lapse on the date any loans or other financing, as described in KRS 154.28-090, incurred in connection with the economic development project mature or are prepaid in full.]~~

SECTION 41. A NEW SECTION OF SUBCHAPTER 28 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

If the authority adopts a preliminary resolution designating an eligible company as an approved company and preliminarily approving the project of the eligible company as an economic development project prior to July 15, 2002, and the authority adopts a final resolution approving the eligible company as an approved company and the project of the eligible company as an economic development project, and the authority and the eligible company enter into an agreement no later than June 30, 2003, then the approved company thereafter shall be subject to subchapter 28 of KRS Chapter 154 effective prior to July 15, 2002.

Section 42. KRS 141.310 is amended to read as follows:

- (1) Every employer making payment of wages on or after January 1, 1971, shall deduct and withhold upon the wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.
- (2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which the wages are paid.
- (3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of wages by the employer during the calendar year, or the date of commencement of employment with the employer during the year, or January 1 of the year, whichever is the later.
- (4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.
- (5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the cabinet shall make the change in these tables necessary to compensate for any increase or decrease in the deductible federal income tax.
- (6) The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of the calculation shall be secured from the cabinet at least thirty (30) days before the first payroll period for which it is to be used.
- (7) The cabinet may, by regulations, authorize employers:
 - (a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;
 - (b) To determine the amount to be deducted and withheld upon each payment of wages to the employee during the quarter as if the appropriate average of the wages estimated constituted the actual wages paid; and
 - (c) To deduct and withhold upon any payment of wages to the employee during the quarter the amount necessary to adjust the amount actually deducted and withheld upon the wages of the employee during the quarter to the amount that would be required to be deducted and withheld during the quarter if the payroll period of the employee was quarterly.
- (8) The cabinet may provide by regulation, under the conditions and to the extent it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to the additional withholding. The additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.
- (9) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in

KRS 154.24-110 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee or the Commonwealth's contribution of KRS 154.24-110(3) applies. If the provisions in KRS 154.24-150(3) or (4) apply, the offset, the offset shall be one hundred percent (100%) of the assessment.

- (10) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees ~~an~~~~the job development~~ assessment ~~fee~~ provided in KRS 154.22-070 ~~or~~ ~~KRS 154.28-110~~~~, or KRS 65.6851~~ may offset the fee against the Kentucky income tax required to be withheld from the employee under this section.
- (11) Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 154.26-100 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be two-thirds (2/3) of the amount of the assessment fee withheld from the employee, or if the agreement under KRS 154.26-090(1)(d)2.b. is consummated, the offset shall be four-fifths (4/5) of the assessment fee.
- (12) Any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job development assessment fee provided in KRS 154.23-055 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be equal to the Commonwealth's contribution as determined by KRS 154.23-055(1) to (3).
- (13) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. The bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but shall not exceed fifty thousand dollars (\$50,000).
- (14) The Commonwealth may bring an action for a restraining order or a temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. The action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

Section 43. KRS 148.851 is amended to read as follows:

As used in KRS 139.536 and KRS 148.851 to 148.860, unless the context clearly indicates otherwise:

- (1) "Agreement" means a tourism attraction agreement entered into, pursuant to KRS 148.859, on behalf of the authority and an approved company ~~on or before June 30, 2002~~, with respect to a tourism attraction project;
- (2) "Approved company" means any eligible company approved by the secretary of the Tourism Development Cabinet and the authority pursuant to KRS 148.859 that is seeking to undertake a tourism attraction project;
- (3) "Approved costs" means:
 - (a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a tourism attraction project;

- (b) The costs of acquiring real property or rights in real property and any costs incidental thereto;
 - (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;
 - (d) All costs of architectural and engineering services, including, but not limited to: estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism attraction project;
 - (e) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project;
 - (f) All costs required for the installation of utilities, including but not limited to: water, sewer, sewer treatment, gas, electricity and communications, and including off-site construction of the facilities paid for by the approved company; and
 - (g) All other costs comparable with those described in this subsection;
- (4) "Authority" means the Kentucky Tourism Development Finance Authority as set forth in KRS 148.850;
 - (5) "Crafts and products center" means a facility primarily devoted to the display, promotion, and sale of Kentucky products, and at which a minimum of eighty percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or agricultural products;
 - (6) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity operating or intending to operate a tourism attraction project, whether owned or leased, within the Commonwealth that meets the standards promulgated by the secretary of the Tourism Development Cabinet pursuant to KRS 148.855. An eligible company may operate or intend to operate directly or indirectly through a lessee;
 - (7) "Entertainment destination center" means a facility containing a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction, an approved tourism attraction project, or a major convention facility, and which provides a variety of entertainment and leisure options that contain at least one (1) major themed restaurant and at least three (3) additional entertainment venues, including, but not limited to, live entertainment, multiplex theaters, large format theaters, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure time activities. Entertainment and food and drink options shall occupy a minimum of sixty percent (60%) of total gross area available for lease, and other retail stores shall occupy no more than forty percent (40%) of the total gross area available for lease;
 - (8) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under KRS 139.536 and KRS 148.851 to 148.860;
 - (9) "Inducements" means the Kentucky sales tax refund as prescribed in KRS 139.536;

- (10) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements of KRS 139.536 and KRS 148.851 to 148.860;
- (11) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state that is not an independent municipal corporation or political subdivision;
- (12) "Tourism attraction" means a cultural or historical site, a recreation or entertainment facility, an area of natural phenomenon or scenic beauty, a Kentucky crafts and products center, or an entertainment destination center. A tourism attraction shall not include any of the following:
- (a) Lodging facilities, unless:
 - 1. The facilities constitute a portion of a tourism attraction project and represent less than fifty percent (50%) of the total approved cost of the tourism attraction project, or the facilities are to be located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency; ~~{or}~~
 - 2. The facilities involve the restoration or rehabilitation of a structure that is listed individually in the National Register of Historic Places or are located in a National Register Historic District and certified by the Kentucky Heritage Council as contributing to the historic significance of the district, and the rehabilitation or restoration project has been approved in advance by the Kentucky Heritage Council; *or*
 - 3. ***The facilities involve the reconstruction, restoration, rehabilitation, or upgrade of a full-service lodging facility having not less than five hundred (500) guest rooms, with reconstruction, restoration, rehabilitation, or upgrade costs exceeding ten million dollars (\$10,000,000).***
 - (b) Facilities that are primarily devoted to the retail sale of goods, other than an entertainment destination center, a Kentucky crafts and products center, or a tourism attraction where the sale of goods is a secondary and subordinate component of the attraction; and
 - (c) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the Commonwealth would remain overnight in commercial lodging at or near the tourism attraction project; and
- (13) "Tourism attraction project" or "project" means the acquisition, including the acquisition of real estate by a leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; the construction, and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including but not limited to surveys; installation of utilities, which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that shall allow the approved company to attract persons.

Section 44. KRS 154.22-080 is amended to read as follows:

~~{(1)}~~ If the authority adopts a preliminary resolution designating an eligible company as an approved company and preliminarily approving the project of the eligible company as an economic development project prior to July 15, 1994, and the authority adopts a final resolution approving the eligible company as an approved company and the project of the eligible company as an economic development project, and the authority and the eligible company enter into a financing agreement no later than June 30, 1995, then the approved company thereafter shall be subject to KRS 154.22-010 to 154.22-070 as in effect prior to July 15, 1994.

~~{(2)}~~ Notwithstanding subsection (1) of this section, an approved company shall be subject to KRS 154.22-050(1)(e) and (2)(d) commencing with the fiscal year of an approved company that begins after December 31, 1994.

Section 45. KRS 42.4595 is amended to read as follows:

The Department for Local Government may promulgate administrative regulations to implement the provisions of KRS 42.4582, 42.4585, or 42.4592. ~~The Department for Coal County Development in the~~ Cabinet for Economic Development or the Kentucky Economic Development Finance Authority may promulgate administrative regulations to implement the provisions of KRS 42.4588.

Section 46. KRS 42.460 is amended to read as follows:

Except as provided in subsection (4)(b) of KRS 91A.040, any assistance granted under KRS 42.450 to 42.495 shall include an agreement that an independent annual audit shall be conducted and that the audit report shall include a certification that the funds were expended for the purpose intended. A copy of the audit and certification of compliance shall be forwarded to the Department for Local Government, in the case of assistance granted from the local government economic assistance fund, or to ~~the Department for Coal County Development,~~ Cabinet for Economic Development and the Kentucky Economic Development Finance Authority, in the case of assistance granted from the local government economic development fund, within eighteen (18) months after the end of the fiscal year.

Section 47. KRS 42.480 is amended to read as follows:

- (1) On or before July 1, 1992, and each year thereafter, the commissioner of the Department for Local Government shall provide ~~the Department for Coal County Development in the~~ Cabinet for Economic Development, the Kentucky Economic Development Finance Authority, and the legislative body of each local government eligible for funds under the provisions of KRS 42.450 to 42.495, an estimate of the funds that will be allocated to the local government for fiscal year 1992-93, and each year thereafter.
- (2) On or before the fifteenth of the first month of a quarter, the commissioner of the Department for Local Government shall cause to be remitted to the legislative bodies of the local governments eligible for funds from the local government economic assistance fund, the funds allocated to the respective local governments for the prior quarter; except that the remittance for the last quarter of a fiscal year shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual allocation due the local government.

Section 48. KRS 12.020 is amended to read as follows:

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

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

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.

- (j) Kentucky State Corrections Commission.
- (k) Commission on Correction and Community Service.
- 2. Education, Arts, and Humanities Cabinet:
 - (a) Department of Education.
 - (1) Kentucky Board of Education.
 - (b) Department for Libraries and Archives.
 - (c) Kentucky Arts Council.
 - (d) Kentucky Educational Television.
 - (e) Kentucky Historical Society.
 - (f) Kentucky Teachers' Retirement System Board of Trustees.
 - (g) Kentucky Center for the Arts.
 - (h) Kentucky Craft Marketing Program.
 - (i) Kentucky Commission on the Deaf and Hard of Hearing.
 - (j) Governor's Scholars Program.
 - (k) Governor's School for the Arts.
 - (l) Operations and Development Office.
 - (m) Kentucky Heritage Council.
 - (n) Kentucky African-American Heritage Commission.
 - (o) Board of Directors for the Center for School Safety.
- 3. Natural Resources and Environmental Protection Cabinet:
 - (a) Environmental Quality Commission.
 - (b) Kentucky Nature Preserves Commission.
 - (c) Department for Environmental Protection.
 - (d) Department for Natural Resources.
 - (e) Department for Surface Mining Reclamation and Enforcement.
 - (f) Office of Legal Services.
 - (g) Office of Information Services.
 - (h) Office of Inspector General.
- 4. Transportation Cabinet:
 - (a) Department of Highways.
 - 1. Office of Program Planning and Management.
 - 2. Office of Project Development.
 - 3. Office of Construction and Operations.
 - 4. Office of Intermodal Programs.

5. Highway District Offices One through Twelve.

- (b) Department of Vehicle Regulation.
- (c) Department of Administrative Services.
- (d) Department of Fiscal Management.
- (e) Department of Rural and Municipal Aid.
- (f) Department of Human Resources Management.
- (g) Office of the Secretary.
- (h) Office of General Counsel and Legislative Affairs.
- (i) Office of Public Affairs.
- (j) Office of Transportation Delivery.
- (k) Office of Minority Affairs.
- (l) Office of Policy and Budget.
- (m) Office of Technology.
- (n) Office of Quality.

5. Cabinet for Economic Development:

- (a) Department of Administration and Support.
- (b) Department for Business Development.
- (c) Department of Financial Incentives.
- (d) Department of Community Development.
- (e) ~~Department for Coal County Development.~~

~~(f)}~~ Tobacco Research Board.

~~(f)}~~~~(g)}~~ Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:

- (a) Public Service Commission.
- (b) Department of Insurance.
- (c) Department of Housing, Buildings and Construction.
- (d) Department of Financial Institutions.
- (e) Department of Mines and Minerals.
- (f) Department of Public Advocacy.
- (g) Department of Alcoholic Beverage Control.
- (h) Kentucky Racing Commission.
- (i) Board of Claims.
- (j) Crime Victims Compensation Board.
- (k) Kentucky Board of Tax Appeals.

- (l) Backside Improvement Commission.
 - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
 - (n) Department of Charitable Gaming.
 - (o) Mine Safety Review Commission.
7. Cabinet for Families and Children:
- (a) Department for Community Based Services.
 - (b) Department for Disability Determination Services.
 - (c) Public Assistance Appeals Board.
 - (d) Office of the Secretary.
 - (1) Kentucky Commission on Community Volunteerism and Service.
 - (e) Office of the General Counsel.
 - (f) Office of Program Support.
 - (g) Office of Family Resource and Youth Services Centers.
 - (h) Office of Technology Services.
 - (i) Office of the Ombudsman.
 - (j) Office of Performance Enhancement.
8. Cabinet for Health Services.
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission on Children with Special Health Care Needs.
 - (e) Office of Certificate of Need.
 - (f) Office of the Secretary.
 - (g) Office of the General Counsel.
 - (h) Office of Program Support.
 - (i) Office of the Inspector General.
 - (j) Office of Aging Services.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
 - (b) Office of Management and Budget.
 - (c) Office of Financial Management.
 - (d) Office of the Controller.
 - (e) Department for Administration.
 - (f) Department of Facilities Management.

- (g) State Property and Buildings Commission.
 - (h) Kentucky Pollution Abatement Authority.
 - (i) Kentucky Savings Bond Authority.
 - (j) Deferred Compensation Systems.
 - (k) Office of Equal Employment Opportunity Contract Compliance.
 - (l) Office of Capital Plaza Operations.
 - (m) County Officials Compensation Board.
 - (n) Kentucky Employees Retirement Systems.
 - (o) Commonwealth Credit Union.
 - (p) State Investment Commission.
 - (q) Kentucky Housing Corporation.
 - (r) Governmental Services Center.
 - (s) Kentucky Local Correctional Facilities Construction Authority.
 - (t) Kentucky Turnpike Authority.
 - (u) Historic Properties Advisory Commission.
 - (v) Kentucky Tobacco Settlement Trust Corporation.
 - (w) Eastern Kentucky Exposition Center Corporation.
10. Labor Cabinet:
- (a) Department of Workplace Standards.
 - (b) Department of Workers' Claims.
 - (c) Kentucky Labor-Management Advisory Council.
 - (d) Occupational Safety and Health Standards Board.
 - (e) Prevailing Wage Review Board.
 - (f) Workers' Compensation Board.
 - (g) Kentucky Employees Insurance Association.
 - (h) Apprenticeship and Training Council.
 - (i) State Labor Relations Board.
 - (j) Kentucky Occupational Safety and Health Review Commission.
 - (k) Office of Administrative Services.
 - (l) Office of Information Technology.
 - (m) Office of Labor-Management Relations and Mediation.
 - (n) Office of General Counsel.
 - (o) Workers' Compensation Funding Commission.
 - (p) Employers Mutual Insurance Authority.

11. Revenue Cabinet:
 - (a) Department of Property Valuation.
 - (b) Department of Tax Administration.
 - (c) Office of Financial and Administrative Services.
 - (d) Department of Law.
 - (e) Department of Information Technology.
 - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
 - (a) Department of Travel.
 - (b) Department of Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (d) Kentucky Horse Park Commission.
 - (e) State Fair Board.
 - (f) Office of Administrative Services.
 - (g) Office of General Counsel.
 - (h) Tourism Development Finance Authority.
13. Cabinet for Workforce Development:
 - (a) Department for Adult Education and Literacy.
 - (b) Department for Technical Education.
 - (c) Department of Vocational Rehabilitation.
 - (d) Department for the Blind.
 - (e) Department for Employment Services.
 - (f) State Board for Adult and Technical Education.
 - (g) The State Board for Proprietary Education.
 - (h) The Foundation for Adult Education.
 - (i) Department for Training and Reemployment.
 - (j) Office of General Counsel.
 - (k) Office of Communication Services.
 - (l) Office of Development and Industry Relations.
 - (m) Office of Workforce Analysis and Research.
 - (n) Office for Administrative Services.
 - (o) Office for Policy and Budget.
 - (p) Office of Personnel Services.
 - (q) Unemployment Insurance Commission.

14. Personnel Cabinet:
 - (a) Office of Administrative and Legal Services.
 - (b) Department for Personnel Administration.
 - (c) Department for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Kentucky Kare.
 - (f) Division of Performance Management.
 - (g) Division of Employee Records.
 - (h) Division of Staffing Services.
 - (i) Division of Classification and Compensation.
 - (j) Division of Employee Benefits.
 - (k) Division of Communications and Recognition.
 - (l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.
10. Education Professional Standards Board.

Section 49. The following KRS section is repealed:

- 65.700 Definitions for KRS 65.700 and 65.703.
- 65.703 Authorization for grant contracts with certain agencies for release of portion of tax increment -- Procedures -- Evaluation.
- 154.12-260 Department for Coal County Development -- Purpose -- Appointment of commissioner.
- 154.22-090 Exemption of approved company from application of certain statutes.
- 154.28-120 Application to approved companies of KRS 154.28-010, 154.28-080, 154.28-090, and 154.28-110.

Section 50. Whereas costs associated with large-scale construction and rehabilitation projects may be reasonably expected to increase with the ending of the current economic

downturn, an emergency is declared to exist, and Sections 43 and 44 of this Act effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 11, 2002